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Current Topics.

The Bench and Bar at Westminster Abbey Service.

AT THE annual service for Bench and Bar, at Westminster Abbey, before the reopening of the Law Courts last week, there was one conspicuous departure from the usual practice which it is hoped will not become permanent. Hitherto the Junior Bar has always walked in the procession through the nave to their seats, bringing up the rear. But, on this occasion, for the first time, they were deprived of all share in the procession, being requested, by notice, to take the seats reserved for them, as usual, in the north transept. We do not know who is responsible for this unfortunate innovation, whether it is the Dean of Westminster, or the Lord Chancellor, or the Bar Council; probably it was introduced with the laudable object of saving time, but it certainly failed to do so, for many members of the Bar who did not see the notice could not get to their seats until after the procession of clergy and legal luminaries had already moved in. The effect was to reduce the Junior Bar to the position of visitors and spectators, like their families opposite, instead of actors in what should be a piece of dignified ceremonial.

Judicial Promotion in England and Scotland.

IT IS SOMEWHAT curious to find that promotion to the Court of Appeal does not proceed on the same lines in England as in Scotland. In England the Prime Minister, in making his selection for the office of Lord Justice, is not restricted in his choice to one who is already a judge; he may, under s. 9, sub-s. (2), of the Supreme Court of Judicature (Consolidation) Act, 1925—which reproduces previous provisions to the same effect—select any person who is a barrister of not less than fifteen years' standing. Such appointments direct from the Bar have been made on several occasions, for example, in the cases of Lord Justice HOLKER, Lord Justice RIGBY and Lord Justice FLETCHER MOULTON. But, as is the customary rule, if the Prime Minister makes his choice from among the judges of first instance he is entitled to select that one of them whom he may consider the best qualified for the post, irrespective altogether of the question of seniority. Thus, the most recent appointee to the Court of Appeal—Lord Justice GREER—was ninth in order of seniority among the puisnes. In Scotland, on the other hand, promotion to the Inner House, which is the equivalent of our Court of Appeal, proceeds entirely on the seniority rule. When a vacancy occurs on the bench of the Inner House there is no provision similar to that contained in s. 9, sub-s. (2), of our Act of 1925 authorising the appointment of any one direct from the Bar, nor is there any power of selection in the hands of the Secretary for Scotland or anyone else: the senior Lord Ordinary, that is, judge of first instance, automatically takes the vacant place. This rule has sometimes been adversely commented on, and it was referred to by the recent Royal Commission which had under consideration the constitution of the Court of Session, but no alteration in the practice was recommended. Something may be said in favour of each system, but probably the more elastic rule prevailing here produces on the whole better results than those attained in the Scottish system.

Waste of Magistrates' Time.

THE CHAIRMAN of the Wimbledon Bench, on the 13th inst., commented severely upon the failure of the solicitors to the Metropolitan Police to communicate their desire for an adjournment in time to save the justices assembling. The court sat to hear an adjourned case against a man accused of having been drunk in charge of a motor car, and were asked by a police inspector for a further adjournment on the ground that an important witness was in hospital. The police solicitors did not appear. There was, of course, no intentional discourtesy to the bench, but it is sometimes forgotten, in the arrangements made by parties, that the court itself is entitled to some consideration, and the protest now made is a timely one.

The £2,500,000 Petition of Right.

MR. WINSTON CHURCHILL'S takings in respect of the death of Lord IVEAGH may be considerably set off if the petition of right presented in respect of the estate of MARIA L'EPINE, to be heard by Mr. Justice ROMER in the near future, results in a judgment against the Crown. The story is a romantic one. MARIA L'EPINE, daughter of a Huguenot refugee who made a fortune and left it to her, died in 1798 worth £92,000. She was a spinster and a lunatic, and died intestate, and as it was supposed, illegitimate, for her mother eloped with her father, and no record could be found of their marriage. Accordingly, by escheat or the law relating to *bona vacantia* (it is not stated in what form the fortune was held) the Crown took, and King GEORGE III presented the estate to Admiral Lord HOWE, who gave indemnity in the event of adverse litigation. Certain descendants of the father's relatives, or the mother's, now claim that they have discovered a record of the marriage of the woman's parents, and can prove it. They are therefore presenting the petition with the object of recovering from the Crown £92,000 with compound interest, stated to amount to about two and a half million pounds. By the Intestates Estates Act, 1884, it was provided that a nominee of the Crown taking *bona vacantia* should be bound by and at liberty to plead the Statutes of Limitations as if the nominee held on behalf of a subject. This Act was

repealed by the Administration of Estates Act, 1925, s. 56 and second schedule, but not so as to affect the time of taking proceedings by or against the Crown (s. 57). But the Act of 1884 did not apply to previous intestacies. The question whether the Crown was bound by the Limitation Act, 21 Jac. I c. 16, was raised and decided in the negative in *Rustonjee* v. *R.*, 1876, 1 Q.B.D. 487, but this authority has been much criticised, and in a very recent case it was stated that the proposition was *dictum* only: see *Cayzer Irvine & Co.* v. *Board of Trade*, 70 S.J. 347 (reversed on other grounds, p. 875. Mr. ROBERTSON ("Civil Proceedings by and against the Crown," p. 393) justifies the decision in *Rustonjee's Case* on the ground that the statute only bars "actions," and a petition of right is not an action. In the *Cayzer Irvine Case* it was stated in the court of first instance, that the Crown can always take advantage of a statute, though not bound by it, but see the comment of SCRUTTON, J.L., in 95 L.J., K.B. p.1061. No doubt if the petitioners prove the facts the law will be thoroughly examined with the stake of two and a half millions on its exposition. But the taxpayer, who will be no better off if the petition fails, and millions to the bad if it succeeds, may think that, if his rulers had not themselves suffered from MARIE L'EPINE'S affliction, they would long since have barred all claim to the estate of this or any other eighteenth century intestate, whether sane or lunatic.

The Channel Hoax.

DR. DOROTHY LOGAN has demonstrated, what few doubted, that a lie can deceive. By now she has probably discovered that no one has any liking for the person who tells the lie. It is a curious and unhappy episode. It should, as one result, have the effect of calling attention to the unsatisfactory condition of the law as to statutory declarations. The statement stated to have been made by the hoaxer purports to have been made "by virtue of the Statutory Declarations Act, 1835," from which it is to be presumed, though it is not actually stated, that the declaration was made before a justice of the peace or other person authorised by law to take it under s. 18 of that Act. The knowingly and wilfully making of such a declaration containing a statement false in a material particular is, by s. 5 of the Perjury Act, 1911, a misdemeanour punishable by imprisonment or fine, or both imprisonment and fine. The offence in no way depends on the ulterior motive of the untruthfulness. The very material particular that "I swam across the English Channel" is confessedly false. But there is a doubt whether such a declaration, even though it purport to be statutory and be made before an authorised person, comes within the section. The history of the extra-judicial oath, and of the various provisions dealing with statutory declarations, seems to indicate that the section gives authority for the reception of such declarations only if they are required (or now authorised) by law to be made, not that people can go about making declarations upon any subject under the sun. There is, however, an old case, *R.* v. *Boynes*, 1843, 1 C. & K. 65, which is authority to the contrary. There a person was convicted for making a false declaration required by the rules of a benefit society. No statutory authority for requiring the declaration was alleged. The material statement was that the accused had suffered loss by fire, and this was false. The point is an interesting one, and it would be a peculiar outcome of the hoax if Dr. LOGAN'S deception, undertaken, as, she claims, in the public interest, should benefit the public by clearing up a doubtful point of law.

Justices' Clerks and Notes of Evidence.

THE FIRST case before a Divisional Court of the Probate, Divorce and Admiralty Division (MERRIVALE, P., and BATESON, J.) this term, *Passingham* v. *Passingham*, was the occasion of some observations by the President on the duty of justices' clerks in cases under the Summary Jurisdiction (Married Women) Act, 1895, to take adequate notes of the evidence and of the reasons of the justices for their decision. This was an appeal from a maintenance order made under the Act by the justices at the Ivinghoe Petty Sessions. The appeal was based, *inter alia*, on lack of jurisdiction, it being contended that the acts of cruelty, if any, on which the order had been granted, had occurred while the parties were living together in another county. The court remitted the case for a new trial as it was obvious that nice points of law would arise on the findings of fact of the justices, no adequate note of which had been taken. The learned President referred to the duty of clerks in such cases—a duty which has been explicitly laid down in a long line of cases, commencing with *Harling* v. *Harling*, 1896, W.N., 28. In *Cobb* v. *Cobb*, 1900, P. 145, JEUNE, P., said: "It is the duty of the clerk in this as in every case to furnish a copy of the notes on the application of either party. Unless notes are taken and furnished the Act would be unworkable for it would be impossible for us without the notes to do justice to the parties upon these appeals . . . The notes to be taken and furnished by magistrates' clerks on the hearing of all applications under the Act of 1895 are to include not merely the evidence, but the decision; and, further, the notes should state the reasons of the justices for arriving at their decision." Again, in *Robinson* v. *Robinson*, 1898, P. 153, GORELL BARNES, J., said: "It is . . . essential that notes of the evidence and of the reasons for the decisions of the justices should be made at the time of the trial, because in all these cases an appeal lies to this court, and it is impossible for this court to do justice on the appeal unless it has a full and proper record of what has taken place in the court below."

A Footballer as "Workman."

THE WIDE scope of the Workmen's Compensation Act, 1925, is illustrated by the case of Mrs. WYNNE, the widow of a professional footballer who played for Bury. Her husband collapsed and died in a game against Sheffield United on 30th April last, and she instituted proceedings under the Act against the Bury Club in respect of his death. His Honour Judge SPENCER HOGG, finding that the cause of death was syncope following pneumonia, accelerated by the employment of the deceased, awarded the widow and children £600 altogether, the maximum compensation possible under the Act, as fixed by s. 8 (1). A stay of execution was granted, so the decision is likely to be reviewed by a higher court. The short report does not state the amount of the man's wages, but there could hardly be any doubt that, even if they exceeded £350, the occupation of a professional footballer would be "by way of manual labour" within s. 3 (2) (*a*)—however much the precise grammarian might object to such a classification in the case of one who not only might not use his hands in his work, but was normally forbidden to do so. In *Smith* v. *Associated Omnibus Co.*, 1907, 1 K.B. 916, the plaintiff, the driver of a motor omnibus, had to work with his hands and feet, and was held to be employed in manual labour within s. 10 of the Employers and Workmen Act, 1875, and the expression "manual labour" as used in the corresponding s. 13 of the 1906 Act was fully discussed in *Jaques* v. *Owners of Steam-Tug "Alexandra,"* 1921, 14 B.W.W.C. 148. A professional footballer must no doubt exercise judgment, but his main assets of pace and skill in football are bodily rather than mental accomplishments. That he came within the former Act in the ordinary case was decided in *Walker* v. *Crystal Palace Football Club, Ltd.*, 1910, 1 K.B. 87, and, although it was not then necessary to go into the question of manual labour, the late Lord MOULTON was prepared to decide this in the affirmative, see p. 93. As to syncope following pneumonia being an "accident," reference may be made to *Clover Clayton & Co., Ltd.* v. *Hughes*, 1910, A.C. 242, in which the deceased workman died as the result of a rupture of an aneurism from which he was suffering, the rupture being due to an ordinary muscular effort in the course of his work. If the appeal is heard, it would seem as if this case must be followed or distinguished.

Foreign Assignments of English Contracts.

THE validity of a transfer of personalty depends, not upon the law of the domicile of the owner, nor upon the law of the place where the property is situate, but upon the law of the country where the transfer takes place. A recent application of this rule occurred in the case of *Republica de Guatemala* v. *Nunez*, 1927, 1 K.B. 669. A contract of deposit was there in question, a sum of money having been left with Lazard Bros., bankers, of London, in 1906. By the time the action was heard that sum, with interest, amounted to £23,696, and the position had been complicated by the death of the banker's customer. The latter was MANUEL CABRERA, who in 1906 was President of the Republic, but in 1920 was imprisoned by a rival government. The latter in due course claimed the money, but the bankers interpleaded and paid the amount into court, as they had received notice of an assignment of 24th July, 1919, by CABRERA to NUNEZ. Oral notice had been given in New York on 20th July, 1921, and written notice had been received in London on 4th August, 1921. On 21st July, 1921, however, a document had been signed by CABRERA, the ex-President, acknowledging that the money was the Republic's and had been misappropriated by him. A similar document was dated 11th October, 1921. NUNEZ alleged that both had been signed by CABRERA under duress while in prison, and were therefore invalid. The Republic alleged that the assignment to NUNEZ was void under the law of Guatemala, and that it was also a forgery by reason of its having been ante-dated in order to defeat one or both of the confessions produced by the Republic. Mr. Justice GREER (as he then was), on the evidence, dismissed the claim of the Republic, and found as a fact that the assignment to NUNEZ was a genuine document. The learned judge held, however, that the assignment (though good under English law) was governed by the law of Guatemala, which provides that (1) a donation exceeding $100 without consideration can only be made by a written contract before a notary on stamped paper, signed by both parties; (2) a minor cannot accept a voluntary assignment, which must be accepted by a tutor appointed by a judge to act for the minor. On all these grounds the assignment to NUNEZ was a nullity, and his claim to the money was also dismissed. The Court of Appeal upheld these decisions. Lord Justice BANKES held that, as the original debtor (the English banking firm) had dropped out, the question must be considered as arising between two persons domiciled and resident in Guatemala at the important time, viz., when their respective titles accrued. Lord Justice SCRUTTON agreed that NUNEZ, being a minor, was incapable of receiving a donation either by the law of his domicile or of the place where the transaction took place, and could not make out a good title to the deposit. Lord Justice LAWRENCE stated that as the debt had its situation or quasi-situation in England, he was unable to appreciate why an assignment valid under the *lex situs* should be ineffectual merely because it was made in Guatemala, the domicile of both parties, and did not comply with the local law. He concurred, however, as to the incapacity of NUNEZ (by reason of infancy) to receive the gift, by which the assignment was rendered void. The fund was therefore ordered to remain in court until the claim of the trustee in bankruptcy of CABRERA was disposed of. The foregoing decision does not conflict with the rule that a dispute as to an original contract is governed by the law of the place where the subject-matter of the contract (even if it be a debt) is locally situated. As pointed out by Lord Justice BANKES (at p. 684) the dispute in the above case was not in reference to the original contract at all, but was one of priorities.

A similar decision had been arrived at, on facts which were the converse of the above, in *In re Maudslay, Sons & Field, Ltd.*, 1900, 1 Ch. 602. The debenture-holders by contract with the company had a charge upon all its assets, including a debt due from Delaunay-Belleville et Cie, of Paris. Unsecured English creditors of the company obtained an inchoate assignment of the debt by citing Delaunay-Belleville et Cie. to appear before the Tribunal Civil of the Seine to show cause why the debt owing to Maudslay, etc., Limited, should not be paid to themselves, the unsecured English creditors. The receiver for debenture-holders thereupon moved for an injunction to restrain the unsecured creditors from attaching the debt in Paris, and so interfering with his possession of the assets. The charge created by the debentures was not valid in France, as it had not been registered there, from which it followed that there had been no notice of registration to the debtor from the "*huissier*," such notice being necessary to confer a good title in France. Mr. Justice COZENS-HARDY (as he then was) held that, though the debenture-holders had a good assignment of the French debt under English law, they had no such assignment under French law. He held that the assignment which alone was recognised by the law of France ought to prevail and that the unsecured creditors had a better title than the debenture-holders. The proceedings in Paris were not a contempt of court, as it would be unreasonable to deprive English creditors of a right against French assets exercisable by French creditors. It will be seen that in this case, although the debt was locally situate in France (where the contract was made and the money payable) both the claimants were English, but the matter was nevertheless held to be governed by the law of France. It is submitted that the true reason for this decision was not (as stated by the learned judge) that the debt was a French asset, whereby the rights of the claimants depended upon French law, but that by proceedings before a competent court in France the unsecured creditors had acquired a charge in priority to the debenture-holders.

A case indistinguishable on the facts from the *Guatemala Case* was *Lee* v. *Abdy & Others*, 1886, 17 Q.B.D. 309, in which the contract was made and the money was payable in England. A resident in Kimberley insured his life with the Reliance Mutual Life Insurance Society in London, and afterwards assigned the policy to his wife. The latter after his death sued the trustees of the company for the sum insured. The trustees defended the action on the ground that the assignment was made in, and was governed by the law of, Cape Colony. Under that law the assignment was void by reason of (1) the assignee being the wife of the insured; (2) the insured being insolvent, whereby his creditors became entitled to the policy moneys. A Divisional Court (DAY and WILLS, JJ.) decided that the law of Cape Colony applied to the assignment and that the company was therefore not liable. The reasons for the decision have since been criticised, and a *dictum* that a chose in action has no locality expressly disapproved. It has been suggested that the decision ought to have been based on the fact that the assignment was from a husband to his wife—a transaction which by the law of the place where it was made (also the matrimonial domicile) the parties were disabled from carrying out.

Facts similar to those in the *Maudslay Case*, above, but arising in a more complicated form, had evoked the following statement: a transfer of movable property, duly carried out according to the law of the place where the property is situated, is not rendered ineffectual by showing that such transfer is not in accordance with the law of the country in which the owner is domiciled. This proposition was laid down by Mr. Justice NORTH in *In re Queensland Mercantile and Agency Co., Ltd.*, 1891, 1 Ch. 536. That company was incorporated in Queensland and had Scottish shareholders who owed unpaid calls. The Union Bank of Australia, Ltd. (incorporated in England) held debentures of the Queensland Company charging property in England and also the unpaid calls, but the Scottish shareholders had no notice of the debentures. The Australasian Investment Co., Ltd., a creditor of the Queensland Company

sued the latter in Scotland for damages, and arrested the calls on its shares in Scotland. Such arrestment operated as an assignment under Scottish law, but the law of Queensland was the same as that of England. If the English contract between the Queensland Company and the debenture-holders were the only matter to be considered, the money belonged clearly to the debenture-holders. It was held, however, that in the English winding up, the priority of claims to the unpaid calls on Scottish shares was regulated by the law of Scotland, and that the Australasian Investment Co. had therefore a better title than the English debenture-holders. The Court of Appeal affirmed this decision on another ground: 1892, 1 Ch. 219. No doubt was cast either upon the correctness of the rule as stated by Mr. Justice NORTH (above) or upon its applicability to an assignment of a debt. It will be seen, however, that Mr. Justice NORTH merely treated the law of the place where the debt was situate as overriding the law of the domicile of the creditor. He did not deal with the law of the place of assignment, which happened to be also the law of the place where the debt was situate.

The subject seems productive of correct decisions on wrong grounds, but the most recent case shows that the weight of judicial opinion is now against the contention that an assignment of a debt, giving a good title thereto by the law of the place where the debt is payable (and therefore locally situate) is necessarily valid. Confusion has arisen in the past by reason of the fact that personal property usually travelled with its owner, and it was not necessary to distinguish between the law of the place where the property happened to be and that of the place where the assignment was made. Where the two conflict, the law of the place of assignment prevails.

The Chaos of our Family Law.

A JURIST, asked to specify the least admirable branch of English law, might hesitate between that relating to gambling and betting, and that governing the relations of husband, wife, and children. In each case the need of thorough reform and consolidation has been obvious for many years. In each case, however, successive Governments well know that a hornet's nest awaits the reformer, and so nothing is done. With respect to domestic relations, the hornet's nest is, of course, the question of divorce. Two logical systems are possible. One is to forbid divorce altogether, as our law did until 1857, except for a few statutory divorces obtained by rich men. The other is to allow divorce when it is apparent that greater evil will ensue in preserving an unhappy union rather than dissolving it. Of our own system it may be said that it mixes the two, on a basis utterly void of logic, and combines the worst features of both. It permits well-to-do people, by a transparent legal fiction, of which both those who make and those who administer the law should be thoroughly ashamed, to obtain easy divorce by mutual consent, and forbids divorce altogether in circumstances in which it is apparent that every purpose for which marriage is ordained is hopelessly frustrated. No doubt in a system in which divorce is entirely forbidden hard cases are bound to occur, as when a young husband is sentenced to penal servitude for life, or a young wife becomes hopelessly insane soon after the marriage. Under such a law the bereft spouses must make the best of it, but they are not mocked by seeing the relief denied to them afforded to others who, with proper advice and circumspection, can easily throw off a union which they find slightly irksome.

The alternative systems permitting and forbidding divorce clearly require very different ancillary laws for their due fulfilment. If divorce is not allowed, separation of the spouses must be made as difficult and inconvenient as possible. This difficulty and inconvenience, it may be noted, was admirably contrived by our ancient Ecclesiastical law as administered in the Spiritual Courts, and combined with the common law. Assuming that on the other hand divorce is allowed, voluntary separation must be recognised, if only as a condition precedent of divorce. But an ideal system should accord no recognition to separation without the court's cognisance and decree.

Our old law adequately ensured against a wife's capricious desertion by two simple but drastic expedients. First, it appointed her husband receiver of her income, without formal liability to account, and secondly, as a last resort, it sent a woman to prison who, having deserted her husband, contumaciously refused to return to him. This, of course, was by the ordinary process of contempt, on disobedience of a restitution decree.

This sauce for the goose was also sauce for the gander, and a husband, whether he chose to avail himself of his wife's company or not, was always liable for her maintenance, not merely in relief of ratepayers, but in accordance with his station in life. This is one of the few features of the old law which still remains. A wife could enforce the obligation either by pledging her husband's credit, or, if he deserted her, by the Ecclesiastical Court's order for alimony.

Also, as a last resort, it was authoritatively held in *re Cochrane*, 1840, 8 Dowl. 630, that a husband might physically restrain his wife's liberty to prevent her deserting him. It has since, of course, been pronounced, with even greater authority, in the "Clitheroe Case," *R.* v. *Jackson*, 1891, 1 Q.B. 671, that this was never the law of England. But until Mrs. Jackson obtained that pronouncement, countless husbands and wives must have been advised otherwise, and *re Cochrane* was the law *de facto*, which had to be obeyed just as much as CROMWELL had when he was Lord Protector.

The old law had the merit of simplicity, but was harsh to the wives of bad husbands. There was not sufficient check on the implied trust of the wife's income, which was sometimes even spent on other women. The attempts of the Court of Chancery to rectify this hardship by the equity to the settlement and the separate use are matters of history. But the separate use by itself was found to be insufficient. Its failure to answer the purpose required of it, and the inception of the restraint on anticipation, will be found in the foot-note to *Pybus* v. *Smith*, 1791, 3 Bro. C.C. 339. The device was held valid in *Jackson* v. *Hobhouse*, 1817, 2 Mer, which, if not the first, is one of the first reported cases on it. But, of course, the restraint on income can only apply by express settlement. In *Brandon* v. *Robinson*, 1811, 18 Ves. 429, Lord ELDON declined to apply it to a man's income.

The Ecclesiastical courts entirely declined to have regard to the terms of a voluntary separation, the proper and wise course in administering a law which did not recognise divorce *a vinculo* at all. It recognised and if necessary enforced separation after its own decree *a mensa et thoro*, but not otherwise. The other courts did not take such a rigid view, and in the middle of the eighteenth century it was held by Lord MANSFIELD that a bill lay in equity to enforce a separation deed, see *R.* v. *Mead*, 1798, 1 Burr. 541. Lord ELDON, however, perhaps more far-sighted as a Conservative, would not have it, and his ruling and opinions will be found in *St. John* v. *St. John*, 1805, 11 Ves. 525. Later the view prevailed that a quiet separation by mutual consent was more seemly than publication of domestic unhappiness in open court as a prelude to a separation decree, and the cases of *Wilson* v. *Wilson*, 1854, 3 H.L.C. 40, and *Hunt* v. *Hunt*, 1862, 4 De. G. F. and G., established the proposition that a separation agreement was valid in all the secular courts. The Divorce Court, to which the jurisdiction of the Ecclesiastical Courts had been transferred, then recognised and gave effect to separation deeds, as in *Matthews* v. *Matthews*, 1860, 3 Sw. and Tr. 161, and *Brown* v. *Brown and Shelton*, 1874, 3 P. and M. 202, and *Marshall* v. *Marshall*, 1879, 5 P.D. 19, and in *Besant* v. *Wood*, 1879, 12 C.D. 605, an injunction was granted to restrain a wife from suing for restitution of conjugal rights

in breach of a covenant in such a deed. Thus in effect a separation deed was not only recognised but enforced against a wife who, with whatever motive, testified her desire to return to cohabitation. So a long journey had been made from the Church's law and Lord ELDON and a breach effected in the ancient ecclesiastical defences of the home.

The case of *Besant* v. *Wood* did not affect restitution proceedings in the absence of a separation agreement, and the liability to imprisonment for contempt of a decree remained. It was held in *Barlee* v. *Barlee*, 1822, 1 Add, 301, that the court had no alternative but to imprison and keep imprisoned a respondent in contempt of such a decree, and Mrs. Barlee was in fact confined for over a year in consequence. As a practical matter, however, normal husbands and wives did not desire to have their spouses indefinitely kept in durance. If their marriage was a failure, they only wished to live separate, and a wife further desired an allowance during her life. To this end, she could commence restitution proceedings and drop them when she had secured it. In *Marshall* v. *Marshall*, *supra*, Sir JAMES HANNEN observed that he had never known an instance in which such a suit was instituted for any purpose other than to enforce a money demand.

In saying this, however, he did not anticipate the resources of the late Mrs. Weldon in her long-drawn-out matrimonial war. Mrs. Weldon, having obtained a restitution decree against her husband, demanded that, if he did not literally obey it, he should be thrown into prison for contempt. Mr. Weldon offered her a house and allowance to be quit of her, but she refused, and argued that the judge had no option but to make the committal order on her petition. Sir JAMES HANNEN was constrained to concur (see *Weldon* v. *Weldon*, 1883, 9 P.D. 52), and, to prevent Mr. Weldon languishing in captivity, the Legislature, in too great a hurry to consider ultimate consequences, at once passed the Matrimonial Causes Act, 1884, abolishing imprisonment as a punishment for contempt in restitution proceedings and creating "statutory desertion." The ultimate result was, of course, that impatient young couples could shorten divorce by nearly two years on a statutory desertion preceding the ordinary hotel bill divorce, until the need for the legal fiction and the stereotyped "return to me" letter were alike abolished by the Matrimonial Causes Act, 1923, requiring the hotel bill alone as precedent to divorce *a vinculo*.

The above changes have been traced somewhat elaborately to show that all the resources and ingenuity of the old law to keep spouses together have been destroyed, but, for poor people, and for those whose living depends on their moral reputations, divorce remains extremely difficult. This is, in the first case, because private espionage remains extremely costly, and so out of the reach of the wives of working-men, who can only establish the adultery of their husbands if the latter openly live with other women, or infect them with disease. In the second case a clean-living but ill-assorted couple cannot obtain divorce unless one commits or pretends to commit adultery.

The practical result of this chaos is deplorable. The law is disregarded, and countless couples live together as husband and wife who are not married, the allowances to "unmarried wives" and their illegitimate children during the war throwing a striking light on the position. In the old days the Ecclesiastical Courts had the power to break up such unions, and exercised it. No court has such a power now (though probably a home of this kind is outside the protection of the Rents Acts, and may be broken up by a landlord, in accordance with the doctrine of *Uphill* v. *Wright*, 1911, 1 K.B. 506).

This laxity can only be cured by a law which the people under it can respect and must obey. A law which affords unmeasured toleration to concubinage but forbids reasonable divorce is obviously less moral than one allowing divorces on reasonable terms, but breaking up illicit unions. This might be made possible if a couple so living together as husband and wife, had, under penalty, to find a reasonable answer to the question why they were not married, and, if married to others, why there had been no divorce. The problem of the consistently forgiving spouse who continues to wish her husband to return to her from the other woman is a difficult one, and would have to be faced. By the old law, the husband could have been put into prison until he preferred his wife's company to the jailor's and relinquished his paramour. By the present law, if the wife declines divorce, the husband is left to live with the other woman and to have a family of children who are still hopelessly bastardised, for they are expressly excluded by s. 1 (2) of the Legitimacy Act of last year from its provisions. Another solution would be to grant divorce against a faithful wife, *malgré lui*. But almost anything seems better than the present *laisser faire* in such a case, the victims of it being the children who are branded as bastards from their birth.

In fact, a rational marriage law involves regulating the relations of men and women so as to produce the best conditions for their children, and each permanent *de facto* union outside its provisions is a reproach to the system which permits it.

The ideal of providing a home and legitimate status to every child born in England is, of course, an impossible one. Yet so is the ideal of preventing murder, which, however, our law approaches with very reasonable efficiency. The old law protected the rights of a husband very fully, and those of a wife to some extent. The present law does not protect the rights of a husband at all. The old law again gave little protection to the children of a bad father and mother, but did make reasonable provision to secure legitimacy. The present law makes no provision whatever to the latter end.

This is the crying problem of our marriage law. Passing from it, however, and considering the legal rights and liabilities of the family *inter se*, chaos is still seen to prevail. In the absence of settlement, a father's only legal duty to his children is to keep them off the poor-rate until they are sixteen years of age, during his lifetime, and to see that they are supplied with such a minimum of food, shelter, and medical attention as to avoid offence against the criminal law. He may, of course, leave his whole estate to others, whether his family are provided for or otherwise. The wife's common law right to maintenance is seriously impaired by her difficulty in pledging her husband's credit—due partly to the fact that dishonest couples have so often swindled tradesmen by obtaining credit on a *ménage* supported by a restrained and therefore unpledgeable income, and partly to the difficulty of discriminating between the neglected wife and the extravagant one who has received an adequate allowance and spent it. *Morel* v. *Westmoreland*, 1904, A.C. 11, and *Paquin* v. *Beauclerk*, 1906, A.C. 148, illustrate the pitfalls awaiting creditors.

A husband's legal rights to his wife's company and society have, of course, practically disappeared, and a wife who deserts her spouse and children can do so without inconvenience from the law, providing that adultery cannot be proved against her. Given that a husband cannot obtain divorce for desertion, the present law virtually makes marriage a sort of option enforceable by the wife only, for, if a husband deserts his wife, she has an adequate remedy in a maintenance order. The case of *Jones* v. *Newton and Llanidloes Guardians*, 1920, 3 K.B. 381, is authority for the proposition that, although a wife may desert her husband, she is entitled to her full rights of support and maintenance whenever and so often as she chooses to return to him.

It is, of course, well recognised that, under the present law, a married woman "has it both ways," and is entitled alike to the protection of a "*feme coverte*" and to the liberty of an emancipated person. The theoretical inconsistency of this might not be of importance if in fact it did not work with extreme unfairness to the husbands and creditors of unscrupulous women. *Stanley* v. *Stanley*, 1877, 7 C.D. 589, which may be cited to show that a married woman can cheat

her creditors with impunity, is still good law. It may be noted, however, that, just as Mrs. Weldon overstrained the protection of her income to bring vexatious actions until judges had to be given power to lift restraint for defendants who had a married woman's action against them dismissed with costs (see M.W.P. Act, 1893, s. 2), so the defence of "coercion" to criminal proceedings has been modified by s. 47 of the Criminal Justice Act, 1925, after a wife whose strength of purpose, as compared to her husband's, was that of Lady Macbeth to Macbeth's, had successfully pleaded it.

It is very easy to indicate the chaos which has resulted from the grafting of the doctrine of emancipation on the old Ecclesiastical law of marriage with the wife subject to the husband. But so long as the English people halt between the two opinions that divorce is always wrong and that it sometimes may be right, the chaos can only be mitigated. Certainly no lawyer could draw a code of our family law with satisfaction to himself or anybody else unless he understood the principles on which the law rested, and those principles are past understanding, for by our law a married woman is sometimes treated as a man, and sometimes as a child or imbecile, is at once directed to live with her husband and then told she need not heed the direction, and, by the Guardianship Act of 1925, given powers of calling the tune of the children's education without being liable for a penny of the payment. These anomalies cannot be woven into a sane code. Hereafter, however, certain lines will be indicated on which such a code might possibly be established.

Goods bought in Contemplation of Re-sale:

Special Damages for Non-delivery.

An interesting application of the provisions of s. 54 of the Sale of Goods Act, 1893, whereby a purchaser of goods may, where there are special circumstances, recover special damages in respect of the breach on the part of the seller, to deliver the goods sold, is to be found in *Patrick & Co.* v. *Russo-British Grain Export Co. Ltd.*, 164 L.T. 197.

By a contract dated the 15th October, 1926, the defendants had sold by sample 2,000 tons of Russian wheat, November shipment, at 59s. 6d. per ton, notice of appropriation to be given within ten days from date of bill of lading, and by a further contract, made on the 23rd October, 1926, a further 2,000 tons were sold at 60s. 6d. per ton. The plaintiffs, the buyers, were merchants, and it was in the contemplation of both parties that the wheat would probably be re-sold by the buyers. The sellers eventually failed to deliver the wheat, and the buyers were unable to procure any wheat conforming to the sample. The question thereupon arose as to the measure of damages, in respect of the non-delivery.

Now, the measure of damages is, in general, where there is an available market for the goods, the difference between the contract price and the market price of the goods at the time or times when they ought to have been delivered, or when no time for delivery is fixed, then at the time of the refusal to deliver (s. 51 (2) (3) of the Sale of Goods Act, 1893). By s. 54, however, the court may award special damages, where, by law, such damages are recoverable. Now it seems clear in the above case that, had the plaintiffs been able to procure wheat, conforming to the sample at the date of the breach, they would not have been entitled to special damages, and it is also clear, according to such authorities as *Hadley* v. *Baxendale*, 9 Ex. 341, and *Grebert Borgnis* v. *Nugent*, 15 Q.B.D. 85, that, had the plaintiffs informed the defendants that they proposed to re-sell the goods at a profit, and had they in fact entered into a contract for re-sale, then the plaintiffs would have been entitled to recover as damages any profit that they might have lost through being unable to purchase similar goods elsewhere, and thus fulfil their contracts. This would be in accordance with the principle laid down by Alderson, B., in *Hadley* v. *Baxendale*, 9 Ex., at p. 354, where the learned judge said: "Where two parties have made a contract which one of them has broken the damages which the other party ought to receive in respect of such breach of contract should be such as may fairly and reasonably be considered, either arising naturally, i.e., according to the usual course of things, from such breach of contract itself or such as may reasonably be supposed to have been in the contemplation of both parties at the time they made the contract as the probable result of the breach of it. Now, if the special circumstances under which the contract was originally made were communicated by the plaintiffs to the defendants, and thus known to both parties, the damages resulting from the breach of such a contract which they would reasonably contemplate, would be the amount of injury which would follow from a breach of contract under these special circumstances as known and communicated." It is under this latter principle that a buyer is entitled to recover as damages the profit he would have made from a contract of re-sale where the buyer is informed of his intention to re-sell. Such authority as there is, however, as far as we are aware, deals with cases where a contract of re-sale has in fact been entered into. But in *Patrick* v. *Russo-British Grain Export Co.*, while it was in the contemplation of both parties that the buyer would re-sell at a profit, apparently no such contract of re-sale had been entered into. The court nevertheless considered that the buyers were entitled to recover as damages the profit they would have made by a re-sale. It seems, therefore, that this decision somewhat extends the principle laid down in such cases as *Grebert Borgnis* v. *Nugent*.

A Conveyancer's Diary.

Covenants for Title on a Sale by Joint Tenants or Tenants in Common.

In our "Points in Practice" columns attention was recently drawn (see *Q.* 979, on p. 760, *ante*) to the divergence of views expressed by the learned editors of "Prideaux," 22nd ed., and "Key and Elphinstone," 12th ed., as to the proper covenants for title to be inserted in a conveyance on a sale by joint tenants or tenants in common beneficially entitled. In the precedents in "Prideaux" (see Vol. I, pp. 547-551) the vendors are expressed to convey as "beneficial owners"; in "Key and Elphinstone" (see Vol. I, pp. 576-577) they are expressed to convey "as trustees."

Now, it is true that joint tenants or tenants in common will in such cases be trustees for sale and *prima facie* ought to be made to convey as trustees; but the very great majority of sales of land are now effected subject to the General Conditions of 1925. And one of the principal objects of those General Conditions is to fix a standard practice to be adopted as generally as it is possible to do so. Condition 26 (2) (see 2 Wolst. and Cherry, p. 776) provides that, where the trustees for sale are absolutely or beneficially entitled, they are to be expressed to convey as beneficial owners. Hence the beneficial ownership covenants will be those usually implied in circumstances such as those mentioned above and the "trustee" covenants will be those implied only in exceptional circumstances.

Appropriation by Personal Representatives.

Other points of considerable practical importance are raised in *Q.* 983 (p. 776, *ante*). In reply to this query the suggestion is made that the beneficiary's consent to the appropriation be recited. It seems, however, contrary to principle to recite a consent in a conveyance or assent made for giving effect to an appropriation. An appropriation usually (see, for example, 3 Prid., 22nd ed., pp. 863-866) takes the form of a declaration

of trust; that will bear the stamp duty (if any) and not the assent. Further, a purchaser does not want to know *why* an assent is made, for he can rely on Ad. of E.A., 1925, s. 36.

Again, it is understood that the Inland Revenue authorities still claim *ad valorem* duty as on a sale where a *consent* to an appropriation under Ad. of E.A., 1925, s. 41, is required; see *Re Lepine*, 1892, 1 Ch. 210, and the practice notes to the "Appropriation Section" (s. 41), in 2 Wolst. and Cherry, pp. 546-50.

Mortgagee's Power of Leasing.

In a mortgage precedent on p. 219 of 2 Prideaux, 22nd ed., a power is expressed to be given to the mortgagees of a leasehold public-house to grant or enter into any leases or agreements for leases for such terms, at such rents, and subject to such covenants and conditions as the mortgagees shall think fit, and in particular it is provided that "any such lease or agreement may contain a covenant on the part of the lessee not to buy or receive, or sell or dispose of, upon the premises, any beer, ale, stout, porter or other malt liquors except such as shall be supplied by the mortgagees," etc.

At first sight and to those who are not familiar with all the provisions of the L.P.A., 1925, this provision appears to be void as a clog upon the mortgagee's equitable right to redeem. It is provided, however, in the L.P.A., 1925, s. 99 (14), that "the mortgagor and mortgagee may, by agreement in writing, whether or not contained in the mortgage deed . . . confer on . . . the mortgagee any further or other powers of leasing or having reference to leasing"; and any such further or other powers are to be exercisable as if they had been conferred by the Act.

The provision referred to seems clearly to fall within s. 99 (14) and to be a valid and proper power to be conferred in the circumstances.

Landlord and Tenant Notebook.

Lodging-house whether Dwelling-house within Rent Acts.— (*Continued from p. 799.*)

Equally as important as the tests indicated on p. 799, *supra*, would also appear to be the tests indicated in the Irish case of *Burns* v. *Radcliffe*, 1923, 2 I.R. 158, i.e., the purpose for which the purposes structurally adapted but this factor might be outweighed, it is submitted, by such factors as the dominant purpose, and the purpose for which the premises are let, since if a tenant chooses to occupy what are really business premises as a dwelling-house that being the purpose for which they were in fact let, that is a matter affecting the tenant himself and not his landlord.

The test as to the structural adaptability of the premises, however, may assume importance where nothing has been said between the lessor and the lessee as to the purpose to which the premises are to be put.

While it is important to determine such matters as the right under the lease, the dominant purpose, the structural adaptability of the premises and so forth, these tests would appear to be preliminary tests, the essential tests in all cases being whether the purpose for which the premises are let or structurally adapted and so forth are purposes consistent with user of the premises as a dwelling-house. The question therefore after the determination of the above matters would appear to narrow down to this, viz.: what amounts to user of premises as a dwelling-house and distinguishes such user from any other user? To that question is submitted that the true answer is, are the premises in question being primarily used for the purpose of being slept in, since the fact that premises are being slept in would appear to constitute the chief characteristic of user as a dwelling-house.

Sleeping on Premises.

It is on this ground that the case of *Duke of Richmond and Others* v. *Dewar and Others*, 38 T.L.R. 151, was decided. In that case premises were let for the purpose of being used, and were in fact used, for sleeping apartments for the staff of a hotel, and the Divisional Court held that the premises constituted a dwelling-house, notwithstanding that they were used by the hotel company for the purpose of their business. Moreover in this case the earlier decision of *Tompkins* v. *Rogers*, 1921, 2 K.B. 94, where a lodging-house was held to constitute business premises was distinguished (see also *Colls* v. *Parnham*, 1922, 1 K.B. 325).

In *Colls* v. *Parnham*, *supra*, a flat which was used partly for taking in boarders, the remainder of the premises being occupied by the tenant, was nevertheless held to constitute business premises.

This case would appear to be entirely in conflict with *Tompkins* v. *Rogers*, *supra*, and also with *Taylor* v. *Faires*, 1920, W.N. 349, in which cases, it was held respectively, that a lodging-house and boarding house constitute business premises.

Even if it were contended that *Colls* v. *Parnham* is no authority for the view that a boarding or apartment house is a dwelling-house within the Rents Act on the ground that the business of taking lodgers was only carried on on a small scale and the premises consisted merely of a small flat, an answer to such a contention is to be found in the Irish case of *Burns* v. *Radcliffe*, 1923, 2 I.R. 158, where it was held that premises let and used as a temperance hotel constituted a dwelling-house within the Act, Andrews, L.J., in that case cogently pointing out that the business of an hotel can be carried on in what is referred to in the Act as a "dwelling-house," and Moore, L.J., pertinently observing that the business in question was not only not incompatible with residence, but in fact actually required it.

When we examine the facts in *Kirk's Trustees* v. *Murray*, they appear to be very similar to the facts in *Colls* v. *Parnham* and in *Burns* v. *Radcliffe*. It is submitted that the decision in the former case cannot be reconciled with the two latter cases. While the learned sheriff correctly applied the tests as to the object for which the premises were let and the dominant and principal user, it is respectfully submitted that the learned judge failed to recognise that the use itself was one that was only consistent with user as a dwelling-house.

The words of Andrew, L.J., in *Burns* v. *Radcliffe* very aptly describe the position in such a case: "The word 'dwelling-house,'" said the learned lord justice, "simply means a house to dwell in. If the Defendant had invited twenty friends to come as visitors to her house it would obviously have been a dwelling-house. It does not cease in my opinion to be such within the statute, because her visitors are under an obligation to pay for their accommodation when taking their departure."

THE RECKLESS SPEED OF MOTORISTS.

A prominent solicitor living at Radlett, Herts (Mr. W. G. Chatterton), has made a strong attack upon the action of the Watford justices in letting off motorists speeding through the village with £2 fines.

"What is £2 to these motorists?" he asked last week at a meeting of the parish council, of which he is a member. "I have often acted for people who come to me with a blank cheque and say, 'Tell the clerk not to fill it in for too much, and tell him I am sorry I cannot be there.'"

"I am not a motorist myself," continued Mr. Chatterton, "and I am not a bigot, but I think the speed at which motorists go through Radlett is absolutely scandalous."

"If I had a revolver I would fire at them and plug their tyres every time they went through, but for the fact that I might shoot the motorists themselves and be landed at the Old Bailey myself. The only thing to do with these people is to send them to prison."

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers are invited and will be answered by some of the most eminent authorities of the day. All questions should be addressed to—The Assistant Editor, "The Solicitors' Journal," 94-97, Fetter Lane, E.C.4, be typewritten on one side of paper only, and be in triplicate. Each copy to contain the name and address of the subscriber. To meet the convenience of Subscribers, in matters requiring urgent attention, answers will be forwarded by post if a stamped addressed envelope is enclosed.

ENFRANCHISED LAND—LEASEHOLDERS FORMERLY ON ROLLS—COMPENSATION AGREEMENT—WITH WHOM MADE.

994. *Q.* Prior to the 1st January, 1926, the customs of this manor did not permit the holder of a derivative interest to execute a deed of enfranchisement. Enfranchisement could only be made by the absolute owner or the reversioner, and in the latter case an enfranchisement made by the reversioner enured for the benefit of the derivative term which correspondingly became converted into ordinary leaseholds. Prior to the 1st January, 1926, if the copyhold leaseholder wished to make an enfranchisement he either had to obtain a concurrence of his reversioner in the deed or else the enfranchisement had to be made by the reversioner alone. As steward of the manor I contend that this custom still prevails, and I have advised the lady of the manor that she cannot enter into a compensation agreement with the leaseholder unless the freeholder joins, but that the freeholder alone can enter into a compensation agreement which will enure for the benefit of the leaseholder, but I contend that the former is the preferable way in order that the compensation money may be apportioned between the fee simple and derivative interest under the Manorial Incidents (Extinguishment) Rules, 1925, Sched., Pt. I, para. 3 (4). Fines and fees in this manor are payable both by the reversioner and leaseholder upon alienation and death, and their respective interests were dealt with by way of surrender and admittance. Is my contention correct or can either the reversioner or the leaseholder independently of the other enter into a compensation agreement and extinguish the incidents affecting his estate, leaving unextinguished the manorial incidents attaching to the other estate. Can any inference be drawn from Manorial Incidents (Extinguishment) Rules, 1925, Pt. IV, of the Schedule No. 54 ?

A. Assuming the fines in the manor were certain, the L.P.A., 1922, s. 142 as slightly amended by the L.P.(Am.)A., 1924, 2nd sched., para. 3 (2), and corresponding to r. 54 quoted above, appears to apply in the above circumstances. On this footing, separate agreements are indicated with the freeholder and leaseholder respectively, and to be made independently. In this respect, the definite provisions of the statute over-ride custom.

L.C.A., 1925—L.C. RULES, 1925—OFFICIAL SEARCH—ENTRY CANCELLED AFTER DATE OF APPLICATION—DATE OF CERTIFICATE.

995. *Q.* We act for a builder who has two estates, Blackacre and Whiteacre. On Blackacre there is a mortgage and further charge, on Whiteacre there are first and second mortgages. The last-mentioned second mortgage was registered by us under the L.C.A. as solicitors for the second mortgagee. On sales of portions of Blackacre search has disclosed the second mortgage on Whiteacre, searches being against "names," not "properties." Solicitors for purchasers of portions of Blackacre have always accepted our letter certifying that the subsisting entry disclosed did not affect the property sold to their clients. On the 30th July last we completed the conveyance of a portion of Blackacre. We acted for both vendor and purchaser. On the same day (as a matter of fact with the moneys received on the last-mentioned conveyance) the second mortgage on Whiteacre was discharged. Application to cancel the registration was not made until the 5th August, and a certificate of cancellation, dated 6th August, has since been received.

On the 5th August application for an official search up to the 29th July was made so that the certificate could be placed with the purchaser's deeds relating to the sale completed on the 30th July. The application states—following the printed form—"and the Certificate of the result should be issued on 29th day of July, 1927." The official certificate states "The Search reveals no subsisting entries," and is followed by the official seal which is dated 8th August, 1927. Is not this a mistake on the part of the search officials, or is it to be assumed that the search is to the 8th August.

We admit that the search should have been made before completion on the 30th July, but we knew the vendor sufficiently well to be sure he would not charge the property without our knowledge. What should be done in view of the fact that we know that on the day we completed, namely 30th July, 1927, there was an entry, though we should have certified, as we have done before, that it did not relate to the property then conveyed ? Are you of opinion it is necessary for a vendor's solicitor to give a certificate as above mentioned, and of what value is such certificate ? If the vendor had charged Blackacre as well as Whiteacre without the vendor's solicitor's knowledge of such charge, would a purchaser have a cause of action against us in view of the certificate ?

A. It is agreed that the date of the official certificate ought to be the date mentioned in the application form, L.C. 11, and, if reference is made to the registry, probably an amended certificate would be issued accordingly, showing (if Blackacre and Whiteacre are in the same county and parish, place, or district) the entry in respect of Whiteacre, since cancelled. Nevertheless, the mistake in this case hardly appears a serious one. The purchaser of 30th July took, it is true, with notice of the charge under s. 198 (1) of the L.P.A., 1925, but his advisers knew that the charge did not affect the premises conveyed to him. Purchasers from him will not be affected by it, because the registration no longer continues in force.

If a vendor's solicitor gives such a certificate as that mentioned above, no doubt he and his firm are personally liable for its accuracy when a purchaser to whom it is given acts on the faith of it. Presumably a solicitor would only give such a certificate in respect of an entry disclosable by the official search of some transaction of which he had personal knowledge. If he gave a wider certificate, it might be at his own peril.

LEASE—BREACH OF COVENANT—FORFEITURE—COMPENSATION —L.P.A., 1925, s. 146 (1), (3).

996. *Q.* A is the owner of freehold premises let on lease; B is the lessee. The lease contains a covenant by the lessee "to use the premises as a stationer's shop, gramophone stores and private dwelling-house only," and a proviso for re-entry on breach of covenant. A recently discovered that B was using the premises for the sale of small quantities of confectionery and served a notice under s. 146 of the L.P.A., 1925, specifying the breach, requiring the lessee to remedy the same, and demanding "fair and reasonable compensation in money" for the breach. B has remedied the breach by discontinuing the sale of confectionery but declines to pay compensation. The breach is admittedly not of a serious nature, and in itself it inflicts no loss on A. B's contention appears to be that he is bound only to make "reasonable compensation," and that if A's damage is nil the "reasonable compensation" is nil. A contends that the breach gives him a right of forfeiture (a right of some value, as vacant possession would be of

considerable advantage), and that if he waives his right he should receive compensation. He claims a nominal sum of £25. A desires to be advised: (1) Whether in the circumstances he is entitled to compensation; (2) If so, whether his action should be for compensation only (the breach having been remedied), or for forfeiture of the lease; (3) It has been alleged by B that confectionery was sold by his predecessor in title with the consent of A's predecessor in title; would this, if proved, amount to a waiver of the covenant? A himself has no knowledge of confectionery having been sold at any time.

A. It was laid down in *Skinner's Co.* v. *Knight*, 1891, 2 Q.B. 542, on the corresponding s. 14 of the C.A., 1881, that compensation was not payable if there was nothing for which to make compensation. That case, however, so far as it related to such out-of-pocket expenses as the solicitor's bill in respect of the breach, was overruled by the C.A., 1892, s. 2, re-enacted L.P.A., 1925, s. 146 (3). But it does not appear to have been overruled in principle in respect of compensation as distinguished from the out-of-pocket expenses mentioned in sub-s. (3). Accordingly, the opinion is here given that B must at least pay A's solicitor's bill, and out-of-pocket expenses (if any) enumerated in sub-s. (3). For the rest, £25 seems rather a large demand for the sale of a few sweets, but that of course would depend on the profits made, etc. Possibly the sale of sweets by B would constitute a breach of A's covenant to a neighbouring confectioner. It is therefore suggested that A should require B (1) to pay A's solicitor in respect of the bill for correspondence in respect of the breach; (2) to pay nominal damages, based on the profits; (3) to indemnify A against future loss arising as above on account of the breach, if A has entered into any such covenant as above. In answer to the questions put: (1) As above; (2) The action, if B declined to pay anything, would presumably be for the forfeiture, showing that the condition precedent had been fulfilled, and it would then be for B to seek relief under sub-s. (2) if he wished to avoid forfeiture; (3) Assuming that A bought the reversion without knowledge of the breach, the case of *Atkin* v. *Rose*, 1923, 1 Ch. 522, is authority to show that A, purchasing without knowledge of the breach, is not affected by any waiver binding his predecessor, even though he, A, may have received rent.

Pre-1926 Intestacy—Dower—Title—Sale.

997. *Q.* In 1918 A who was the owner of three freehold cottages, died intestate, leaving a widow, two sons and a daughter. There was no personal estate to collect and no grant has been taken out to the deceased's estate. The widow has occupied one of the three cottages and taken the rents on the other two cottages. The eldest son, who was heir-at-law, has been, and still is, content for his mother to enjoy the property, and the position now is that the widow requires some funds and has decided to sell the three cottages. The heir-at-law is agreeable, and does not propose to claim any part of the proceeds of sale which will be taken and utilised by the widow for her own use. Before this can be done we presume the widow must take out letters of administration to her late husband's estate, and when this is done we should like to know in the circumstances what form of conveyance and from what parties the purchaser would be safe in taking in exchange for his purchase money.

[Further to the query put to you recently, we find that the widow is a chronic invalid and not fit to take out the grant. It is therefore proposed that she should renounce her right to do so, and that the eldest son should apply for letters of administration.]

A. The opinion has previously been given in these pages that a pre-1926 heir whose estate is subject to dower can deal with the same as absolute owner with the concurrence of the doweress, see "A Conveyancer's Diary," vol. 70, pp. 723-4. A purchaser, however, would certainly require administration to be taken out to the testator's estate, and proof of payment of death duties, which presumably has not yet been made. If the widow is unable to take the grant, it would no doubt be given to the son, who could then pay the death duties (producing the certificates to the purchaser) and assent to the devolution to himself under the A.E.A., 1925, s. 36, and then sell, or he could sell as administrator, in either case handing the net proceeds after payment of expenses and duties to his mother if he so pleased. For the purposes of this answer, however, it is assumed that the heir was of age on 31st December, 1925.

Joint Tenancy in Law—Sole Survivor—Title.

998. *Q.* By a conveyance dated 12th October, 1889, freehold property was conveyed to W.D.Y. and J.T. to hold the same unto and to the use of the purchasers in fee simple, and in such deed it is stated that the purchase money was paid out of moneys belonging to them on a joint account The said W.D.Y died on the 5th October, 1926, and by his will appointed E.W. his executor, who has proved the same, and the estate is still under administration. J.T. with the approval of E.W. has agreed to sell the property, and half the proceeds of sale will be paid to the said E.W. as the share of the late W.D.Y. in the said property. Can J.T. as the survivor of the joint holding, conveying as beneficial owner make a good title to the purchaser, without the appointment of an additional trustee, and if such trustee is absolutely necessary, is there any objection to the appointment of E.W.? The property is of small value, and it is desirable to avoid any unnecessary cost, provided a good title can be given to the purchaser by a conveyance from J.T. alone, and which the purchaser would be willing to accept.

A. J.T. can give title under the amendment made to the L.P.A., 1925, s. 36 (2), by the L.P. (Amend.) A., 1926, if the severance of joint tenancy is not disclosed. But he would of course deal with the proceeds of sale in accordance with the equitable rights. If this method is adopted, the purchaser would no doubt require "beneficial owner" covenants from J.T.

Lease—Effect of L.P.A., 1925, ss. 34, 36; 1st Sched., Pt. IV.

999. *Q.* What is the effect of the L.P.A., 1925, ss. 34 and 36 on a lease granted after 1926 to two or more persons? If the lessees hold the demised property on the statutory trusts it is presumed that the trust for sale and provisions for the proceeds of sale also the "additional powers" referred to in "Prideaux," Vol. 1, p. 653, should be inserted in the lease. Has the Act, 1st Sched., pt. IV, a similar effect on leases granted to two or more persons prior to 1925?

A. A lease is a "conveyance" within the L.P.A., 1925, see s. 205 (1) (ii) and s. 34 (2) takes effect accordingly on the grant of a lease to two or more in undivided shares. Section 36 gives joint lessees a trust for sale of their interests, and also a sole trustee for joint tenants, but the latter must appoint a co-owner of the legal estate and give receipt for purchase money As to the implied powers of joint lessees as trustees for sale, there would certainly be no need to set them forth in the lease, and the lessor would probably object, but perhaps not to one giving them unconditional power to mortgage, though it hardly seems to be required. The references to land in the L.P.A., 1925, 1st Sched., Pt. IV include land held on lease, see s. 205 (1) (ix).

Conveyance to a Dead Person—Effect.

1000. *Q.* A has contracted to buy from Mrs. B (widow) a small freehold property. The abstract shows that Mrs. B quite recently purchased the freehold reversion to the property, the conveyance being taken subject to a lease and with the benefit of the ground rent reserved, but followed by a declaration by Mrs. B that the leasehold interest should merge in the freehold reversion. The title to the leasehold interest is as under:—

(1) Lease (in 1907) to C.

(2) Mortgage (also in 1907) from C to D.

(3) Second mortgage (also in 1907) from C to trustees of a building club of which C was a member.

(4) Transfer of the first mortgage (in 1914) from D to B (husband of Mrs. B).

(5) Assignment (in 1915) by C to trustees for the benefit of his creditors, leaseholds being excepted, but with the usual declaration of trust in favour of the creditor's trustees.

(6) Death of B in March, 1924, and proving of his will by his widow, the sole executrix and universal legatee (Mrs. B).

(7) Assignment dated 17th May, 1924—trustees of the building club of the first part, trustees of the deed of assignment of the second part, C of the third part, and B of the fourth part—reciting that B had paid to the building club trustees sums amounting to £75 in respect of which C had made default, and witnessing that the two sets of trustees (to the intent to release the property from any interest of them respectively therein) assigned, and C assigned and confirmed, the property to B for the residue of the term of the lease, but subject to the first mortgage—the transfer of which to B had apparently been overlooked.

B was a fellow member with C of the building club, and the transaction intended to be effected by the assignment of the 17th May, 1924, was one of a number of somewhat similar transactions effected with various members on the winding up of the club. The arrangement was arrived at some time before B died, but apparently there was some difficulty and delay in getting the several deeds executed, and eventually, when they were completed, the same date was inserted in all the assignments, the fact that B was dead manifestly being overlooked. The deed had not been executed by B. I should be obliged if you would give your views on the situation. Is the deed of the 17th May, 1924, of any effect, or is it a mere nullity? In either case, any suggestion for setting matters right would be esteemed.

A. A dead man can acquire no estate in English land, and, though it was held in *Wray* v. *Wray*, 1905, 2 Ch. 349, that a conveyance to a dead man was really one to a firm of which he had been a member, it certainly would not be safe to deduce that a purported conveyance to one not a partner would operate as a conveyance to his personal representatives—and, short of that, this was no conveyance at all. Nor could it have operated as a covenant to stand seised, for a covenantee must be alive. The purported conveyance, however, was at least an acknowledgment in writing that the dead man, if alive, would have had the right to the conveyance, and that equitable right, whether viewed as arising under an implied contract or declaration of trust, would pass to his personal representative. That right would give the widow an equitable estate in fee (subject to the legal mortgage also vested in her) and make the other parties to the purported deed bare trustees of their interests in the land in question. On this view the L.P.A., 1925, 1st Sched., Pt. II, paras. 3 and 6 (*a*), together with Pt. VIII, para. 3, if the mortgage was by sub-demise, operated to vest the lease subject to the mortgage in the widow, and the interests would merge unless some reason was shown against it. But the widow's subsequent declaration of the merger of freehold and leasehold would be evidence that she had elected to merge the leasehold mortgage and equity, and so held the fee simple. The opinion is therefore here given that she has a good title, but if at small expense the assuring parties to the deed of 17th May, 1924, could convey and confirm to Mrs. B this course might preclude future requisition. Or, alternatively, on the footing that the assignment of 17th May, 1924, was wholly inoperative, the widow as mortgagee of the leasehold might purport to exercise her power of sale and convey the whole leasehold interest under the L.P.A., 1925, s. 89 (1), the purchaser being protected by s. 104, and making a declaration of merger of the freehold and leasehold interests conveyed to him.

JOINT TENANTS—EXPRESS POWERS OF SALE, ETC.

1001. *Q.* Clients of ours (husband and wife) are jointly purchasing a dwelling-house with the intention that they should be joint tenants, both at law and beneficially. We find in the books of precedents elaborate provisions containing trust for sale, power to mortgage, and directions that proceeds of sale should be held as joint tenants beneficially. It seems to us that all this is unnecessary, and that all that is required is that the habendum should run: To hold the same unto the husband and wife as joint tenants, both at law and in equity, omitting all other clauses. We should esteem your views upon this point.

A. The L.P.A., 1925, s. 36 (1), provides that joint tenants hold on trust for sale, and ss. 23 to 28 gives trustees for sale the ordinary ancillary powers. It is agreed, therefore, that, in an ordinary case, to set forth these powers merely cumbers the deed. Possibly, however, in view of any latent doubt as to the power to mortgage (see answer to *Q.* 632, p. 81), an enabling clause to this end might be inserted. Even the proposed habendum may not be necessary in view of ss. 34 (2), 60 (1) and 63 (1), though it may be useful as evidence between the surviving spouse and the personal representatives of the other.

ESTATE DUTY—RELEASE OF ANNUITANT'S INTEREST IN HER LIFETIME.

1002. *Q.* A died in December, 1922, having by his will (proved May, 1923) left certain property to his son B on his attaining twenty-five, subject to a charge in favour of his wife C of an annuity an apportioned part of which he charged on the property devised to B. Testator appointed his wife, C, and D executors with power if they received an advantageous offer to sell any part of his real estate, and hold the proceeds upon the same trusts as the property sold. In 1923 the executors conveyed to E part of the property devised to B, the conveyance containing a recital that the consideration money constituted in the opinion of the executors an advantageous offer, and by the same indenture testator's widow, C, released the property sold from her annuity. The purchaser, E, has now sold a portion of the property conveyed to him; and the solicitors for the sub-purchaser contend that notwithstanding that the widow has released the property from her annuity, it is subject to payment of duty on the cesser of the annuity on her death. A certificate of satisfaction of estate duty on the death of A has been given by the Estate Duty Office, but the sub-purchaser's solicitors insist that the estate duty payable on the death of the widow, C, must be commuted, prior to the new conveyance. The son B is an infant. It is believed that the sale was necessary for the purpose of discharging A's debts, but apart from this I contend that less than twenty years having elapsed from testator's death the executors have since the Land Transfer Act, 1897 implied power to sell the property discharged from the annuity according to the case of *Re Tanqueray-Willaume and Landau*, 20 Ch. D. 465. When A purchased the property the deeds were in the custody of a bank, and on inquiry whether the bank had a charge thereon vendor's solicitors stated that the bank had an equitable mortgage by deposit, which would be discharged on completion.

A. If the owner of a life interest, or an annuity charged on land or other property disposes of or releases his or her interest during lifetime and more than three years before death, estate duty on the lesser of such interest is not payable out of such land or property, see *A.-G.* v. *Beech*, 1899, A.C. 53, and *Cowley* v. *Commissioners of I.R.*, 1899, A.C. 198, at p. 219. Succession duty is charged substitutively on the proceeds of sale, see, S.D.A., 1853, s. 42. The solicitors for the sub-purchasers may also be referred to the L.P.A., 1925, s. 17 (1), which appears to be a conclusive answer to their contention so far as estate duty on C's death is concerned, for there can be no charge while she is alive.

Reviews.

The Conveyancer's Notebook. Being a Résumé of the Chief Points arising under the Recent Conveyancing Statutes, and General Suggestions on Conveyancing with Precedents and Notes. Second Edition. By A. H. Cosway. London: Effingham Wilson. 1927. xii and 288 pp. 7s. 6d. net.

In his Notebook Mr. Cosway expresses his views on many points of considerable importance to the conveyancer. He draws attention to several matters that are very easily overlooked in everyday practice, and in so doing serves a useful and happy purpose. The work, however, suffers a little from lack of arrangement, there being a series of Articles and some Further Articles, and then cases and amendments, relating to the same subject-matter (though, of course, not giving the same information). Further, the commendable attempt to make the book a short, readable and clear one has resulted on several occasions in making the statement of the law inaccurate; see, for example, on p. 8, where it is said that it is now "illegal" that a purchaser shall accept a conveyance "with the concurrence of equitable owners" in certain cases; cf. p. 12 and contrast p. 188, where the position is accurately stated. Again, on p. 51 it is stated that "the Act itself" (presumably the S.L.A., 1925, is referred to) "vests the legal estate in the tenant for life and not the Vesting Deed"; cf. p. 61, where a similar statement is made. On p. 77 it is stated that "there must not be more than four trustees." This, of course, is far too general.

Apart from such blemishes and as an indicator and reminder of the principal changes introduced by the new conveyancing, the book is quite useful.

Obituary.

Mr. H. ROBERTS.

Mr. Harry Roberts, solicitor, carrying on practice at 12 Railway-street, Chatham, was found dead on Fort Pitt Fields, on the outskirts of the borough, shortly before 10 a.m., on Thursday, the 13th inst. He had been in the habit of taking a morning walk with his dog and on Thursday left the house as usual apparently in good health. Mr. Roberts, who was 61 years of age, was admitted in 1890, and was a member of The Law Society.

Sir ROBERT F. FULTON, M.A., LL.D.

An Indian lawyer, Sir Robert Fulton Fulton, late acting Chief Justice of Bengal, passed away on Saturday last, the 15th inst., at his residence, 7 Sloane-gardens, at the age of eighty-three. Born in Edinburgh on the 23rd August, 1844, he was the son of Mr. Joseph Rampini of that City, but assumed the surname of Fulton by Royal Licence in 1908. Educated at Edinburgh Academy and Edinburgh University, he was awarded the University gold medal for logic in 1861, taking his M.A. degree three years later. He obtained first place in the open examination for the Indian Civil Service in the same year, when he was appointed to the Bengal Province and directing his studies to oriental languages so as to better equip himself for the discharge of his duties, received the degree of honour in Bengali with special proficiency certificates in Urdu, Hindu and Uriya. In 1875 he was appointed a district and sessions judge, receiving the special thanks of the Bengal government some years later for his successful settlement of an important dispute having reference to the estate of the Nawab of Decca. Called to the bar by the Inner Temple in 1883, he was in the following year appointed Legal Remembrancer to the Bengal Government. He was Acting Puisne Judge of the High Court of Calcutta in 1888, 1889, 1890 and in 1892, receiving the permanent appointment of Puisne Judge in 1893, whilst he was an additional member of the Legislative Council of the Viceroy of India in 1902-3, in which last-mentioned year he received from the University of Edinburgh the honorary degree of LL.D. He acted as Chief Justice of Bengal in 1907 and 1908 when he retired from the Indian Judicial Service which he had adorned so many years, and received the honour of knighthood. As a judge, a lawyer and a scholar, Sir Robert Fulton has left behind him a reputation rarely equalled in the service. His ability and sincerity were universally admitted, and he will be long remembered in India as a sound just Judge and a just and fearless man. Lady Fulton and an only daughter (Mrs. Drury Fuller) survive him, but his only son died on active service during the great war. H.

Court of Appeal.

No. 1.

In re **Forsey & Hollebone's Contract.** 25th and 26th July.

Vendor and Purchaser—Sale of Property free from Incumbrances—Town Planning—Resolution to prepare Scheme—Registration—Whether an Incumbrance—Local Land Charge—Notice—Town Planning Act, 1925, 15 Geo. 5, c. 16, ss. 2 (2), 4, 10 (2).—Law of Property Act, 1925, 15 Geo. 5, c. 20, s. 198—Land Charges Act, 1925, 15 Geo. 5, c. 22, s. 15 (7)—Law of Property (Amendment) Act, 16 & 17 Geo. 5, c. 11, Sched.

A resolution of a local authority to prepare a scheme under the Town Planning Act, 1925, duly registered as a land charge under the Land Charges Act, 1925, does not create an incumbrance or restriction on property included in the area proposed to be planned, but is only a potential interference with the land, the effect of which is that any person who builds house or other erection on the land can only do so after the date of the resolution with the permission of the local authority, otherwise he may be deprived of compensation for taking or injuriously affecting the land.

Decision of Eve., J., *affirmed.*

Appeal from a decision of Eve, J., on a vendor and purchaser summons. By a contract dated 10th December, 1926, the vendor agreed to sell to the purchaser a villa residence in Upperton Road, Eastbourne, in fee simple, free from incumbrances, except those specified in the schedule. The property was within an area subject to a resolution of the borough council dated 26th October, 1925, to prepare a town-planning scheme. The resolution was registered as a land charge in January, 1926, but neither party was aware of it. The purchaser took the objection that the resolution constituted an incumbrance, free from which the purchaser could not sell. On a summons to determine the point, Eve, J., held that the resolution was not an incumbrance, but that even if it were, the purchaser had notice of it under the Law of Property Act, 1925, s. 198, and was therefore precluded from taking any objection to it. He dismissed the summons, and the purchaser appealed.

Lord Hanworth, M.R., having stated the facts, and read ss. 2, 4, 10 and 12 of the Town Planning Act, 1925, said that an order was made in 1922 under the Town Planning Act, 1919, providing that a local authority might permit the building of houses, etc., to be continued under certain conditions, and though the Act of 1919 had been repealed, the order was still valid. The effect of the resolution to prepare a town-planning scheme was that from and after October, 1925, the land agreed to be sold was under the possible danger that the scheme when passed might require part of the land to be taken and paid for, to carry out the scheme. But there would be no right to compensation if the purchaser proceeded to build without the leave of the borough council. The resolution was a "restrictive covenant" within s. 15, sub-s. (7) of the Land Charges Act, 1925, but that section had

been amended and qualified by the schedule of minor amendments to the Law of Property Amendment Act, 1925, and it was now only a "local land charge." He, his lordship, thought that the decision of Eve, J., was quite right, that the resolution did not create any incumbrance or defect of title, but only a potential restriction on the user of the front of the property. The resolution was passed not so much for purposes of restriction as to prevent unreasonable claims being made for compensation by persons buying up land subject to the proposed scheme and building. The purchaser could not say that the vendor had failed to make a good title, and the appeal must be dismissed with costs.

SARGANT, L.J., and LAWRENCE, L.J., delivered judgment to the same effect.

COUNSEL: *Topham*, K.C., and *Byrne*; *Farwell*, K.C., and *C. Harman*.

SOLICITORS: *Wellington, Taylor & Sons*; *Burton, Yeates and Hart*, for *Charles & Malcolm*, Worthing.

[Reported by H. LANGFORD LEWIS, Esq., Barrister-at-Law.]

High Court—Chancery Division.

La Radiotechnique *v.* **Weinbaumer.** Clauson, J. 28th June,

PASSING OFF—PRACTICE—PLEADINGS—DEFENCE—DEFENDANT'S SIMPLE TRAVERSE—IF IN EFFECT AN AFFIRMATIVE ALLEGATION—RIGHT OF PLAINTIFF TO PARTICULARS—RULES OF SUPREME COURT, 1883, Ord. XIX, rr. 6 and 7.

A defendant is not bound in a passing off action to define his line of defence or opposition to the plaintiff's claim, and it is only if his simple denial involves an allegation that particulars of it will be ordered.

MacLulech *v.* MacLulech, 1920, P. 439, *and* Weinberger *v.* Inglis, 1918, 1 Ch. 133, *followed.*

If he gratuitously pleads that the plaintiff's get-up is in common use in the trade, he must either give particulars of such pleading or abandon it.

Schweppes Ltd. *v.* Gibbons, 1904, 22 R.P.C. 113.

No practice has been established which binds the court to order a defendant to give particulars in a case of a simple denial.

Boake Roberts & Co. *v.* Wayland & Co., 1909, 26 R.P.C. 251, *distinguished.*

Procedure summons.

This was an application by the plaintiffs in an action that para. 3 of the defence might be struck out or that in the alternative particulars might be declared of it as follows: (*a*) If it were contended that the words "Radio Micro" were in use by others than the plaintiffs, particulars of such user stating the name of the person or persons and the earliest date of such user; (*b*) if it were contended that the plaintiffs' cartons were not distinctive, particulars of cartons, if any, in use by other firms and relied on by the defendants and of the features alleged to be common to the trade and by whom and when used.

The facts were as follows: The plaintiffs, who carried on business as manufacturers of goods for wireless valves, claimed an injunction to restrain the defendants from using in circulars or advertisements of wireless valves not of the plaintiffs' manufacture the words "Radio Micro" (words which were not registered as a part of a trade mark) and from using cartons in fraudulent imitation of the plaintiffs' cartons, and from otherwise passing off goods not being goods of the plaintiffs as and for the plaintiffs' goods. In support of the relief claimed the plaintiffs alleged by paras. 3 and 6 of their statement of claim that they had long been accustomed to place certain of their valves on the market under the name of "Radio Micro," and such name was well known as indicating the goods of the plaintiffs; that they had been long accustomed to put up their valves in rectangular cartons of a distinctive appearance and bearing the words "Radio Micro," and such cartons were well known to the trade and the public and indicated that such goods were the goods of the plaintiffs; that the defendants had recently put upon the market and advertised for sale and sold wireless valves marked with the words "Radio Micro"; that such valves were packed in cartons marked "Radio Micro," and so closely resembled the cartons used by the plaintiffs as to be calculated to deceive; that the goods so sold by the defendants were not the goods of the plaintiffs but a fraudulent and obvious imitation thereof. The plaintiffs further stated that as instances of the type of act complained of they would rely upon the issue by the defendants in or about the month of March, 1927, of circulars offering "Radio Micro" valves for sale, and the sale on or about 2nd March, 1927, of twelve valves in cartons marked as stated above to G. E. Stevenson. The defendants by para. 3 of their defence simply denied all these allegations in paras. 3 and 6 of the statement of claim.

CLAUSON, J., after stating the facts, said: The way in which the allegations have been stated is interesting in view of the possible difficulty that the plaintiffs may have in their action, if their claim really depends upon the use by the defendants of the words "Radio Micro," upon their goods, since those words are not a registered trade mark, and under the Trade Marks Act, 1905, no action will lie for the infringement of an unregistered trade mark. However, that may be the defendants have taken the course of simply traversing the plaintiff's allegations; they have themselves set up no affirmative case, but simply challenged the plaintiffs to prove their case. The plaintiffs contend that the denial by the defendants is a pregnant denial involving an affirmative allegation that other persons than the plaintiffs have applied the words "Radio Micro" to their goods, and that therefore they, the plaintiffs, are entitled to have the particulars which they claimed. There is no jurisdiction under Ord. XIX, rr. 6 & 7, to order the particulars claimed. True, there is power to order particulars of "any matter stated in any pleading," but according to the authorities "any matter stated" in r. 7 means stated expressly or by reasonable or necessary implication. If the denial involves an allegation, particulars will be ordered: *MacLulech* v. *MacLulech*, 1920, P. 439. The respondents' denial does not involve any allegation on their part, and that view is confirmed by the decision of Astbury, J., in *Weinberger* v. *Inglis*, 1918, 1 Ch. 133, a decision not inconsistent with the subsequent decision of the Court of Appeal in *MacLulech* v. *MacLulech*, *supra*, see also *Paslak Petroleum Maatschappij* v. *Deen*, 1924, 1 K.B. 111, per Bankes, L.J., at p. 114. A defendant is not bound (as it has been contended by counsel for the applicants that he is), in a passing off action, to define his line of opposition. He has been called upon to do so in cases where the claim is based upon infringement of a registered trade mark. In such cases no onus is on the plaintiff, except to prove that his mark is registered, and if the defendant alleges that the mark is improperly on the register on the ground, for instance, that it is a mark common to the trade, and not distinctive, he will be ordered to give particulars of such an allegation which he will have to prove. No doubt a defendant who in a passing off action is not content to give his simple denial, but gratuitously pleads that the plaintiffs' get up is in common use in the trade, must give particulars or abandon his allegation, see *Schweppes Ltd.* v. *Gibbons*, 1904, 22 R.P.C. 113. No practice has been established which binds the court to order a defendant to give particulars in a case of his simple denial. In *Boake Roberts & Co.* v. *Wayland and Co.*, 1909, 26 R.P.C. 251, there is a claim for infringement of a trade mark, and there is nothing in the decision there in favour of the contention of the applicants.

COUNSEL: *Courtenay Terrell, R. W. Turnbull.*

SOLICITORS: *Philip Conway, Thomas & Co., Edward Fail.*

[Reported by L. M. MAY, Esq., Barrister-at-Law.]

The Law Society at Sheffield.

ANNUAL PROVINCIAL MEETING.

[By our Special Representative.]

(*Continued from page* 808.)

MODERN CHANGES IN ANCIENT CORONERS LAW.

(By J. A. Howard-Watson. (Liverpool.))

(*Formerly Courts-Martial Officer to Army of the Black Sea.*)

" But is this law ?
Marry, is't
Crowner's Quest Law."
[*Hamlet*, Act V, Scene 1.]

Shakespeare puts into the mouth of intelligent clowns, whilst digging the grave of one crossed in love, questions which have often since exercised the minds of the thinking public, such as, the right line of demarcation between sadness, badness and madness, and the correctness of the verdict of temporary insanity, when *felo-de-se* would be, possibly, more just, but certainly less generous, when inquiry has to be made into the state of mind of

" One more unfortunate
rashly importunate."
[" The Bridge of Sighs."—*Thos. Hood.*]

Many more of our best writers have pursued this fascinating, if rather gruesome, subject.

It boots little, however, to investigate motives, ethics and matters over which the Supreme Divinity has permitted the thick veil of the unknown to be drawn.

Rather is it of interest and importance to sketch the provision made by our poor human imperfection for dealing with the methods of investigation of questions of death, involving, as it does, the subject of foul play.

It is proposed, therefore, to briefly sketch—

(*a*) The history of the ancient office of coroner—an office which grows in importance with the lapse of years and does not fall prey to the iconoclastic zeal of would-be reformers, armed with axes of alleged (and often false) economy ;

(*b*) The scope of his duties, authority and privileges ; and

(*c*) Recent changes and reforms, to bring up to date the present-day requirements of efficiency with reasonable expedition, entailing the curtailment—if not complete extinction—of the circumlocution office.

The original dignity of the office is reflected even in the name coroner, or crowner—an office under and having custody of the pleas of the Crown, and as ancient as that of sheriff under our Anglo-Saxon Kings—although the ascription of the office to King Alfred is perhaps as apocryphal as his connexion with the cakes. That the Mirror of Justices is full of inaccuracies may be true, but Coke, in his " Institutes," cites its authority for the institution or existence of King's Coroners in Alfred's day, and its authority on this point is also quoted, with approval, in a work by the father of Lord Bacon.

Certainly coroners were known to have been no *parvenus* to office, for London was granted a charter to elect a coroner by Henry I, and Colchester by Richard I, and coroners were expressly mentioned in, and their privileges somewhat curtailed by, Magna Carta. Nevertheless from these early periods a coroner's court was a court of record, as it still is, and can commit for contempt, but *in facie curiæ* only. A coroner takes depositions and must supply copies to parties interested against payment. In the metropolis, his court has special and peculiar jurisdiction for holding inquests on origins of fires and suspected arson—which power is frequently brought into use. All coroners have jurisdiction (with a jury) to inquire as to treasure trove, although nowadays it is very seldom that the inquest results in gold or silver coin, plate, or bullion being discovered to belong to no known person and thus declared to belong to the King, or his nominee ; for, if the treasure was not concealed by the owner but merely lost or abandoned, it is not strictly treasure trove, but its first discoverer has a good title to it as against everyone, except the true owner (*Armory* v. *Delamirie* (1721), Smith's Leading Cases, 11th ed., p. 356). However, a plea by such a finder that " finding's keeping " is not good law as against the rightful owner's claim.

There are several kinds of coroners, but those appointed by a county and borough are those who matter most to the average citizen. The others are those who are so by virtue of their office, such as the Lord Chief Justice and all High Court Judges, the King's Coroner and Attorney, the Coroner of the King's Household, and the Admiralty Coroner—the last-mentioned office, as such, appears now to be defunct, for his duties can be carried out by the coroner for the district where the body was first brought to land (Coroners Act, 1887) and the two former officers have jurisdiction and duties within specially defined narrow limits.

From the Statute of Westminster in Edward I's reign, 1275, to the present time, a flowing tide of legislation has regulated this subject, whether in respect of the whole country or specified portions of it ; thirty-five of these statutes, with a few saving exceptions, were repealed by the Coroners Act, 1887, and some of those exceptions were " scrapped " by the Statute Law Revision Act, 1891. The principal enactments now governing the subject are contained in the County Coroners Act, 1860, the Coroners Act, 1887, and the Coroners Amendment Act, 1926, and regulations made thereunder.

County and borough coroners are appointed by county, city, or town councils (as the case may require), though there are still a few franchise coroners appointed by letters patent or by virtue of a royal grant or charter, and these were usually elective offices, i.e., a certain number of persons had the right to vote at an election for coroner, but there are hardly any of these now left, and when they die, or retire, such elections will proceed to the limbo of obscurity, along with the elections for parish beadle, so healthily killed by Charles Dickens in one of his " Sketches by Boz."

The qualifications of a coroner may be legal or medical, and in addition he must be a " fit person," and if a county coroner (but not if a borough or city one) have a property qualification, " having land in fee sufficient in the county whereof he may answer to all manner of people "—to quote the verbiage of 1340 (13 Ed. III, cap. 6, continued by the 1887 Act) and by statute he is compelled to reside within his district, or not more than two miles from its boundary. By common law it is said that all coroners are justices of the peace ; but, be that as it may, they generally are so appointed, and in 1881, in the case of *Davis* v. *Pembrokeshire Justices*, it was held, *inter alia*, that the holding of the two offices were not inconsistent or incompatible. The broad rule for the conferment of jurisdiction appears to be, where is the body lying at the time an inquest should be held, irrespective of where the cause of death arose, or where the actual death occurred ; and, where such place concerns the sea, river, or navigable canal, the jurisdiction is that of the coroner for the place where the body is first brought to land.

So far as regards remuneration, virtue seems to have been its own reward, until Henry VII's time, when a flat rate of 13s. 4d. was ordained, with somewhat nebulous directions as to the source whence that noble emolument was derivable ; towards the end of George II's reign, the principle was established of obtaining payment from the county rate, and, eventually, since the 1860 Coroners Act, the salary system has prevailed, and it falls to the county or city councils to pay the stipend (Local Government Act, 1888) : if the council and coroner fail to agree upon the stipend the Home Secretary fixes it, subject to review every five years. There are occasions on which it falls to a county coroner to execute the office of sheriff in addition to his own office, and then he is, additionally, entitled to sheriff's fees—such cases occur when just exception is taken to the appointed sheriff acting as such, e.g., as when the latter is an interested party in any proceeding.

A coroner may be removed by the Lord Chancellor on competent grounds, such as misbehaviour, incompetence, inability or wilful neglect of duty.

In regard to boroughs, a coroner must be appointed where such borough had a separate court of quarter sessions before 1888 and has a population exceeding 10,000, but although the corporation appoint the coroner, he is not the officer of the corporation, but of the Crown. The circumstances under which a coroner is compelled, or at least entitled, to order and hold an inquest have been the subject of judicial decision, and Mr. Justice Stephen, in *Reg.* v. *Price*, 1884, 12 Q.B.D., pp. 247-248, has laid down the axiom that " a coroner has no absolute right to hold an inquest in every case in which he chooses to do so," and, in an earlier case, in 1702, Chief Justice Holt's dictum was to the effect that it is not in general the duty of coroners voluntarily to obtrude themselves into private houses, when they have not been sent for, and have received no notice from the police or other authority that death has occurred, in circumstances which appear to them to call for an inquest, although, the Chief Justice adds, in that delightfully ambiguous way which often accompanied his dicta, " the coroner need not go *ex-officio* to take the inquest, but ought to be sent for," thus throwing the onus of decision on the coroner, as to going or staying away, even if sent for, and of holding or refraining from an inquest.

Doubtless officious interference is in many cases censurable excess of duty, and to a coroner in such a quandary may occur Polonius' advice to Laertes : " Take each man's censure, but reserve thy judgment."

Considerable latitude of discretion is allowed to a coroner to avoid holding an inquest, if he is satisfied, from reliable evidence (medical or otherwise) that the deceased's state of health was such that the death has probably ensued by visitation of God ; but he would not be reasonably or properly

exercising his discretion in the absence of such evidence on which he could ground his opinion of the cause of death.

In all other cases he must, on receipt of police information or other *primâ facie* evidence of sudden death or of the finding of a body, hold an inquest—and it is the duty of all persons to furnish such information—and not merely that of the responsible heads of such institutions as prisons, asylums, workhouses, retreats, coastguard stations, or paid homes for the poor, the aged, or infants.

It is also an indictable offence for any person to bury the body of anyone who has died a violent death without the coroner's sanction, or to attempt to dispose of a body by cremation, or otherwise, so as to prevent an inquest or to obstruct its utility, whilst a coroner who requires further evidence before concluding his inquest may, and should, allow, or order, adjournments thereof; he must open the inquest promptly, upon receipt of information which calls for it, and proceed expeditiously, under pain of disciplinary measures being taken against him. In the case of accidents coming within the provisions of the Factory and Workshops Acts, the coroner must notify the district factory inspector and give him an opportunity of being present at the inquest and /or any adjournment.

Under this (1901) Factory, etc., Act, relatives and other persons are entitled to be present at the inquest or to be legally represented and take part in the proceedings, subject to the coroner's order, which means that, although, in practice, he never refuses an interested party permission to examine, cross-examine, or bring forward evidence, yet he is not obliged to give his permission, and the rights or privileges both of presence and of attendance are of grace and not by right. (See decision in *Garnett* v. *Ferrand*, 1827, 6 B. & C., p. 611.)

Special regulations—which perhaps are hardly of particular interest—have been made by various statutes, e.g., Regulation of Railways Act, 1871, Explosives Act, 1875, Metalliferous Mines Regulation Act, 1870, Coal Mines Regulation Act, 1887, etc., for the safeguarding of the interests of persons injured in railways, mines and factories, by the presence, and assistance, of special inspectors, appointed by the Board of Trade, at inquests.

The subject of a jury, has, of recent years, been subject to a good deal of fluctuation. A coroner's jury need have no qualifications beyond being "good and lawful" (sweetly vague and elastic) and indeed "comprehending all vagrom men" save convicts, outlaws, or aliens of under ten years' standing. It has not been unknown for the coroner's beadle or officer to "go out into the highways and hedges and compel them to come in" where candidates were not abundant, especially as the minimum number, twelve, may be increased to twenty-three; and here it may not be out of place to register a protest against the indignity of holding inquests in unsuitable buildings such as public-houses, which has been too common a practice in the past.

Coroner and (subject to the provisions of the new Act) the jury, proceed to view the body—a procedure provoking protest on innumerable occasions by jurors who dislike the duty, and any coroner who neglects to do this invalidates the whole inquisition, and is mulct in costs. A decision on this point was obtained within the past few months against a Lancashire deputy coroner.

A coroner has no right to exclude, or refuse, material evidence tendered by any person, because the latter may incriminate himself, though he should first warn such proffered witness that he is not bound to incriminate himself. A coroner has statutory power to fine, or at his option, commit for contempt, any recalcitrant witness who declines to attend and /or give evidence and /or sign his depositions, although Sir Jno, Jervis in his work (1829) says such signature is not essential to render such depositions evidence.

If the coroner, in his discretion, excludes the public from his court, and any newspaper publishes an account of the proceedings, such newspaper cannot claim the defence of privilege, offered by the Law of Libel Amendment Act, 1888. Reasonable discretion is allowed to a coroner as to availing himself of medical inquiry and evidence, and of ordering post-mortem examinations, and the removal of bodies for such purposes, and as to the grounds on which he may order an adjournment or adjournments. The jury having given its findings and verdict, and certified it by a written inquisition, setting forth the particulars found, and on which the verdict has been grounded, the coroner must accept the verdict (of not less than twelve of them) whatever his own opinion may be. The coroner may issue his order for burial, or (since 1903) for cremation, before the verdict is actually given—or at any time after he has viewed the body. He may also sign a death certificate after he has ordered a post-mortem examination, and without holding an inquest, in a proper case, e.g., where the result of the post-morten examination appears to remove the grounds of suspicion. Of course, this power or discretion of withholding an inquest is always liable to be overruled by Home Office Order.

During the late war there was initiated emergency legislation by which citizens' time was saved from jury service, and coroners' courts were included in this laudable effort—Coroners (Emergency Provisions) Act, 1917, and Juries Act, 1918—although even then, if the subject-matter of the inquest concerned or incriminated some person accused of a crime, e.g., murder or manslaughter, a jury was always called.

These provisions are repealed, but re-enacted, with improvements, by s. 13 of the new Act, and thereby the coroner has a wide discretion, and may call a jury, even though he has opened the inquest without one (and if he does so the inquest need not start *de novo*, if there is, or appears to be, any reason for summoning a jury). If the case comes within any of the specified exceptions, he *shall* proceed to call a jury. These are: (*a*) murder, manslaughter or infanticide; (*b*) death in prison, or under circumstances requiring an inquest under any Act other than the Coroners Act, 1887; (*c*) death by accident, poisoning or disease, under Acts for the welfare and compensation of workmen, such as the Factory, etc., Acts. In regard to these exceptions, it will be noticed that they constitute a reversion to some extent to the pre-war compulsory calling of juries, for, under the 1917 Emergency Powers Act, the coroner was not obliged to call a jury, even in these classes of case, though as a rule he probably did so, whenever the seriousness of the case seemed to call for the course of making it desirable for a jury to share the responsibility of a verdict which might involve the liberty of the subject.

Then there are two new sub-sections which are innovations: (*d*) death caused by accident arising out of the use of a vehicle in a public street or highway; and (*e*) death occurring in circumstances the continuance or possible recurrence of which is prejudicial to the health or safety of the public, or any section of the public.

This last sub-section appears to aim at dangerous public exhibitions, such as stunts by flying men, and the former at motorists.

A coroner may in certain circumstances and events depute his duties to a deputy or assistant deputy who will, however, sign all documents in connexion with the inquest in the coroner's name, and the deputy or assistant deputy can now act without a justice's order or certificate, in the emergency, such as was formerly required. The main changes effected by this new Act (which only came into force on 1st May, 1927) chiefly concern, so far as the public benefit is affected, the removal of the old-standing grievance of time and money being wasted on duplicate inquiries, in cases where there is likely, or impending, a charge of murder or manslaughter (including infanticide) against some person or persons. The former practice not merely involved the disadvantages named, to both what one may call the prosecution and the defence, but an additional disadvantage to the defence hitherto, was, that a coroner's inquiry was not bound by the same strict rules and laws of evidence as the hearing before stipendiary magistrate or justices, and therefore, statements, purporting to be evidence, might creep in, and prejudice be thereby created against an accused before he stood his trial at assizes. This change is effected by s. 20 of the 1926 Act, and is of far-reaching importance, since, in practice, a coroner now merely opens the inquest formally, and in such cases forthwith adjourns ("in the absence of reason to the contrary") until after the conclusion of the criminal proceedings, and even then he need only resume the adjourned inquest "if he is of opinion that there is sufficient cause so to do." A common-sense reform, long awaited, but none the less welcome, especially followed as it is by s. 21, whereby a coroner is empowered to dispense with an inquest, if he is of opinion that a post-mortem examination may prove an inquest to be unnecessary; this provision cannot, however, be utilised, where there is reasonable cause to suspect a violent or unnatural death, or death in prison, or death caused by accidents such as those coming under the Acts regulating factories, workshops, coal, etc., and Metal Mining Acts, etc.

The long-vexed question of the jury viewing the body is dealt with by s. 14. Shortly, the coroner "shall" (i.e., must) view it, and, if the coroner directs, *or* if a majority of the jury so desires, the body shall be viewed by the jury also, but not otherwise. Section 15 saves time, where not more than two of the jury disagree with the majority verdict, so that the coroner may accept the majority verdict, thus giving him a discretion to either do so *or* to discharge the disagreeable jury and call a fresh one.

Section 16 grants the coroner a discretion where for convenience', economy's and /or expedition's sake, it would be better to allow the body to be removed within the jurisdiction of another coroner, with the latter's consent.

This removes the cause of friction, which, sometimes, ended in unseemly squabbles, upon the subject of jurisdiction, dignity and etiquette.

It would be tedious to indicate the various matters of detail by which the new Act is distinguished, beyond stating that these indicate a real desire—destined to realise satisfaction in practice—to avoid those pitfalls, and law's delays, so obnoxious to the public, and which yet twine themselves round the hearts of the lineal descendants of the Tite Barnacles of the Circumlocution Office.

Such matters as disputes by medical witnesses about their fees, which have sometimes puzzled the public, and distressed deceased's relatives, are put on a proper basis; as also the avoidance of many separate inquests, arising out of one accident, where the bodies happen to be found at different times, or within the jurisdiction of different coroners.

All these things—whilst far from ensuring perfection—and whilst doubtless capable of working improvements—serve to render more efficient public service, and to improve public amenities, and prove the State to be, as it should be, *servus servorum*.

(*To be continued.*)

Societies.

The International Institute of Public Law.

An interesting example of the new tendency towards intellectual co-operation among the leading nations of the world is the recent establishment of a new international society (Institut International de Droit Public).

The seat of the new body is at Paris, and its headquarters the Faculty of Law in the University of that city the first president being the eminent French publicist, M. Gaston Jéze. The list of foundation members comprises the names of many of the most distinguished Continental jurists; but the English-speaking world is represented by President Lowell and Dean Pound, of Harvard, Professor James Brown Scott, the eminent American international jurist, Chief Justice Taft, of the Supreme Court of the United States, and Professor Edward Jenks, Dean of the Faculty of Laws in the University of London.

The object of the Institute is the study of public law and political science; and its chief method will be the preparation by specially appointed commissions of its members, of reports on the various questions which arise upon the application of the principles of the latter to the constitutional and administrative systems of the self-governing countries of the world. Commissions have already been appointed on such matters as the separation of powers in government, the relations of constitutional law to the ratification of treaties, the judicial safeguard of constitutional rules, and the principle of the rule of law.

In addition to the foundation members, there will be honorary and associate members, but the total number of members will not exceed fifty. The institute will normally hold an annual session in June at Paris, or some other chosen city.

United Law Society.

A meeting of the Society was held in the Middle Temple Common Room, on Monday, the 17th inst., Mr. F. W. Yates in the chair. Mr. G. W. Tookey opened—"That this House views with alarm the encroachment by the police on the liberty of the subject." Mr. H. O. Hughes opposed. Messrs. Shanly, Stemp, McMillan, Buller, Duveen, Bull, Guedalla and Ashley having spoken, Mr. Tookey replied, when the motion was put and lost by eight votes.

Chartered Institute of Secretaries.

Preliminary, intermediate and final examinations for chartered secretaries will be held on Monday and Tuesday, 19th and 20th December in London, Birmingham, Bristol, Cardiff, Hull, Manchester, Newcastle, Nottingham, Sheffield, Glasgow, Belfast and Dublin. Entries close on the 19th November. Particulars may be obtained from the Institute, London Wall, E.C.2.

Solicitors' Benevolent Association.

The monthly meeting of the directors of this association was held on the 12th inst., at The Law Society's Hall, Chancery-lane, the Rt. Hon. Sir William Bull, Bart., M.P., in the chair. The other directors present were Sir A. C. Peake (Leeds), and Messrs. A. C. Borlase (Brighton), E. R. Cook, T. S. Curtis, R. Epton (Lincoln), A. G. Gibson, C. G. May, H. A. H. Newington, R. W. Poole, P. J. Skelton (Manchester), M. A. Tweedie and A. B. Urmston (Maidstone). £1,090 was distributed in grants of relief; thirty-seven new members were elected and other general business transacted.

Law Students' Debating Society.

At a meeting of the Society, held at The Law Society's Hall, on Tuesday, the 18th inst. (Chairman, Mr. W. M. Pleadwell), the subject for debate was: "That, in the opinion of this House the present system of appointing to the magisterial bench laymen as justices of the peace, is not in the best interests of justice, and should be abolished." Mr. H. Heathcote Williams opened in the affirmative and Mr. H. Shanly took the negative. After the following members had spoken, Messrs. C. F. S. Spurrell, W. S. Jones, G. Thesiger and A. Betts, and the opener had replied, the motion, was put, and carried by one vote. There were eighteen members and four visitors present.

Legal Notes and News.

Appointments.

Mr. William Staley Brooke, LL.M., has been appointed Assistant Solicitor in the office of Mr. S. F. James, O.B.E., Solicitor, Town Clerk of Ilkeston. Mr. Brooke served his articles with Messrs. Brooke, Taylor & Co., Bakewell, is twenty-two years of age, and was admitted recently.

Mr. Ian Mackenzie, Kilmorack, has been appointed Sheriff Clerk Depute at Portree in succession to the late Mr. Kenneth J. Brand, Solicitor.

Professional Partnerships Dissolved.

Henry Arthur Pickup and Harold Kay, solicitors, Blackpool and Fleetwood, Lancaster (Pickup and Kay), by mutual consent as from 30th June.

Seymour Williams, Edwin Watts, and Raymond J. Watts, solicitors, Bristol (Lawrence and Co.), as from 30th September.

Francis Hermitage Day, Robert Anthony Arnold, Bertram Tuff, and Hugh Noel Grimwade, solicitors, Rochester (Arnold Day and Tuff), by mutual consent as from 1st October, so far as concerns F. H. Day, who retires from the firm. R. A. Arnold, B. Tuff, and H. N. Grimwade will continue the business under the style of Arnold, Tuff and Grimwade.

Wills and Bequests.

Mr. Charles James Grimwade, solicitor, of Garfield, Felixstowe, late of Toppesfield Hall, Hadleigh, Suffolk, for forty-three years Registrar of the Hadleigh County Court, who died on 11th November, aged eighty-six, left estate of the gross value of £21,831. He left £500 to the Church Missionary Society, £200 to the London City Mission, and £200 to the British and Foreign Bible Society.

Dr. Edwin Sidney Hartland, F.S.A., LL.D., D.Litt (seventy-eight) of Alexandra-road, Gloucester, for forty years Registrar of the County Court and District Probate Registrar, Mayor of Gloucester in 1902, a well-known authority on anthropology, left estate of the gross value of £20,944.

Mr. Ernest Alfred Newth, of West Ashton-road, Trowbridge, Wilts, for over forty years Clerk to the Trowbridge and Melksham Board of Guardians, a prominent Freemason (net personalty £1,431), left estate of the gross value of £1,617.

Sir Robert Ellis Cunliffe, The Grove, Boltons, S.W., from 1900-20 Solicitor to the Board of Trade, left estate of the gross value of £16,257.

Mr. Robert Milburn (seventy-five), solicitor, of Brampton, Cumberland, left estate of the gross value of £4,108.

Mr. Edward George Sandford Corser, solicitor, Shrewsbury, left estate of the gross value of £34,353.

The attention of the Legal Profession is called to the fact that the PHŒNIX ASSURANCE COMPANY Ltd., Phœnix House, King William Street, London, E.C.4 (transacting ALL CLASSES OF INSURANCE BUSINESS), invites proposals for Fidelity Guarantee and Court Bonds, Loans on Reversions and Life Interests. Branch Offices at Byron House, 7, St. James's Street, S.W.1; 187, Fleet Street, E.C.4; 20-22, Lincoln's Inn Fields, W.C.2; and throughout the country.

BRITISH CLAIMS AGAINST HUNGARY.

The Administrator of Hungarian Property has, under the powers conferred upon him by s. 1 (xiv) of the Treaty of Peace (Hungary) Orders, 1921-23, and with the approval of the President of the Board of Trade, prescribed the 31st October, 1927, as the final date by which proofs by British nationals of debts due to them by Hungarian nationals or of pecuniary obligations of the Hungarian Government under Art. 231 of the Treaty of Trianon, and other claims by British nationals against the Hungarian Government, must be made in order to rank for payment of the seventh dividend to be declared by him.

It will be recalled that the 30th October, 1926, was the final date by which such proofs had to be made in order to rank for payment of the sixth dividend, but creditors who failed to lodge their proofs of claim with the Administrator by that date will, if they do so by the 31st October, 1927, be entitled subject to what is stated below in regard to claims under Art. 231 of the Treaty to rank for payment of the dividend out of assets remaining after payment of the sixth dividend before the assets are applied to the payment of the seventh dividend.

In accordance with the rule made by the Administrator on the 7th March, 1923, claims under Art. 231 of the Treaty can only be admitted to rank at all for dividend if the proof was lodged before the 30th June, 1923, or if the time for lodging the proof is extended by the administrator, who has power to grant an extension until two months after the claimant became aware of the existence or amount of the claim where the claimant only became aware of its existence or amount at a date subsequent to the 1st June, 1923. Claims lodged after the 31st October, 1927, will, if accepted, only be permitted to rank against any surplus of the above-mentioned Hungarian assets which may remain over after payment of the said seventh dividend.

The prescribed forms of proof of claim may be obtained on application to the Administrator of Hungarian Property at Cornwall House, Stamford Street, London, S.E.1.

GREEK CLAIM AGAINST BRITISH GOVERNMENT.

The Permanent Court of International Justice on Monday last, by seven votes to four, upheld the preliminary objection taken by the British Government to the jurisdiction of the court to hear the claim of the Greek Government, filed on 28th May last, that the British Government, as Mandatory for Palestine, by its delay in approving the plan of the re-adapted concession of M. Mavromatis had caused him loss. It will be remembered that the claim of M. Mavromatis, a Greek subject, was heard in March, 1925, before the Hague Court, which by its judgment decided that the concessions obtained by him before the war for the supply of water and electricity to Jerusalem city should benefit by one of the clauses forming part of the peace settlement at Lausanne and should accordingly be re-adapted to conform with the new economic conditions which obtained in Palestine. In that judgment the court overruled an objection on the part of the British Government to its jurisdiction. In the case now before the court the Greek Government asks for a ruling that the British Government has violated its international obligation under Article II of the Mandate for Palestine in delaying its approval of the plan prepared for the re-adapted concession, and asks for damages estimated at £217,000, with interest at 6 per cent. for the injury caused to M. Mavromatis by this delay.

THE INSURANCE BILL.

In addressing a meeting at Birmingham, on Friday last, Sir Arthur Steel-Maitland, Minister of Labour, referred to the Bill embodying the recommendations of the Blanesburgh Report, and said that: "The fear had been expressed that it has been decided to alter the permanent scheme, suggested by the report, in some important points. That is not the case, and I would take this opportunity of correcting a misunderstanding. In a section of the report the committee made recommendations which provide for the transitional period up to the date when the final scheme can take full effect. Owing to the slower recovery of the country from the injury caused by the General Strike and the coal stoppage last year, which were not fully apparent when the report was made, that date must be later than they had hoped. We have left the final settlement on one or two points, therefore, until the future state of the country becomes clearer. But we have not taken a decision on any important matter contrary to the permanent scheme of the report. I trust that by Christmas we shall have passed this much-needed measure. It will represent the united opinion of persons of widely different political views, and will create a system of more real and true insurance than we have at present."

WHEN IS A MAN DRUNK?

In a case at Kingston on Tuesday, in which a man was charged with having been drunk in charge of a motor car and driving in a dangerous manner, Dr. Armstrong, police divisional surgeon, said he examined the defendant and found him to be definitely drunk.

The Clerk (Mr. G. Washington Fox) asked the doctor if he agreed with the old verse:

He is not drunk who from the floor,
Can rise and drink and ask for more;
But he is drunk who prostrate lies,
Without the power to drink or rise.

Dr. Armstrong said he did not agree, but admitted that a man in the defendant's condition could have driven from London to Kingston until something happened to upset him.

The charge of drunkenness was dismissed, and the defendant was fined £10 for dangerous driving.

RULES THAT ARE NOT LAW.

Summoned at Guildhall on Saturday last for failing to produce his motor licence on request by a constable, Kenneth Dunman, of Killieser-avenue, Streatham, stated that in the A.A. handbook, which was issued to over a million people, it said that "if you produce your licence within twenty-four hours of being asked for it you are in order."

Alderman Sir Harold Moore: But that does not happen to be the law, which requires you to carry your licence with you. Amongst the duties I have to perform here is not included that of paying attention to the rulings of the A.A. handbook. I must fine you 5s.

MR. JUSTICE SHEARMAN AND THE JUDGE'S "LODGINGS."

At Dorset Assizes, at Dorchester, recently, Mr. Justice Shearman, in charging the grand jury, said that he was glad to see that the judge's lodgings had been renovated and that the drawing room no longer looked like a railway waiting room. He was also pleased that the quaint old court had been given a new coat of paint and varnish. It was now nice and clean, but he was sorry to see that the calendar was so dirty.

A DOCTOR'S EVIDENCE.

During the hearing of a wife's petition in the Divorce Court yesterday a doctor who was called to give evidence concerning the respondent in the suit told the judge that when the man sought his advice it was "in secrecy in every respect."

Mr. Justice Hill: I understand, but that secrecy cannot be maintained when the interest of justice desires. You are not willing to give this evidence, but I must direct you to give it.

The doctor then gave his evidence, and the wife was granted a decree *nisi*.

SOLICITOR SENT FOR TRIAL.

On Wednesday in last week, at Southampton, Charles Cecil Dominy, forty-eight, solicitor, of Darby Green Farm, Blackwater, formerly in practice at Southampton, and who held the post of clerk to the justices of the Hythe Petty Sessional Division, was charged on remand with obtaining £2,000 from Herbert William White, of Southampton, by false pretences. Mr. A. J. Rogers, who prosecuted, asked for a committal on a second charge of having forged the counterfoil of a cheque for £4,000. Accused, who was committed for trial, pleaded not guilty and reserved his defence.

AUTUMN ASSIZES.

The following dates and places fixed for holding the Autumn Assizes are announced in the *London Gazette*:—

Western Circuit (2nd Portion) (Mr. Justice Shearman).—7th November, Bristol; 12th November, Winchester.

CRIME TO WALK IN THE ROAD.

At the opening of by-pass roads at Buckfastleigh and South Brent, in connexion with Devon's £1,000,000 trunk road scheme, Major G. Strong, chairman of the Reconstruction Committee, said people should be able to walk on a footpath from Plymouth to London. It would be a very good thing, he thought, if legislation were passed making it a criminal offence for pedestrians to walk in the road.

VALUATIONS FOR INSURANCE.—It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is generally very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers, and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac a speciality.

THE SOLICITORS' JOURNAL

AND WEEKLY REPORTER.

PUBLISHED EVERY SATURDAY. PRICE ONE SHILLING.

TO THE LEGAL PROFESSION.

AN extensive series of brilliant Articles on important aspects of various branches of law, by some of the most eminent authorities of the day, will appear exclusively in this Journal. The first series include:

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Mr. A. J. FELLOWS, B.A. (of Lincoln's Inn).
Mr. T. BOURCHIER CHILCOTT (of Lincoln's Inn).
Mr. ALBERT LIECK (Chief Clerk, Marlborough Street Police Court).

A Series of weekly Articles on "Highways," "Private Streets," "Commissions of Sewers," "Sewers and Drains."
"Trade Unions and the Law."
"Lord Birkenhead's Acts."
"Deposits on Sale of Land."
"Some Modern Criminal Legislation."
"The Conduct of Local Public Inquiries."
"Some Legal Aspects of Town Planning."
"Large Landowners and the Companies Acts."
"The Companies Bill."
"Conveyance of Land subject to Trusts for Charitable Purposes."
"The Effect of the Great War on Criminal Legislation."

This list will be extended, and further particulars published from time to time.

The Points in Practice department of the paper will be of the greatest service to you.

Extracts from some appreciatory letters typical of the many we have received from Subscribers:—

"I am much obliged for your letter of the 5th instant accompanying a reply to the query which I sent to you recently."
WEST BROMWICH. 7th September, 1927.

". . . We find your 'Points in Practice' columns most interesting and useful."
CIRENCESTER. 8th September, 1927.

"I am very much obliged for your letter of the 19th instant, which will assist me in dealing with the contention of the lessor's solicitors."
LONDON, S.W.1. 20th September, 1927.

"I am much obliged to you for your letter of the 27th enclosing, prior to publication, a reply to my query. I quite agree with the reply."
HUDDERSFIELD. 28th September, 1927.

"I am much obliged to you for your letter of the 27th inst. sending me, prior to publication, a reply to my query on income tax."
BRADFORD. 28th September, 1927.

"I am in receipt of your letter of the 28th inst., enclosing answer to my 'Practical Point,' which will be very helpful to me, and for which I thank you."
HENDON, N.W.4. 30th September, 1927.

"I am very much obliged by your letter of yesterday's date enclosing further reply to my query as to a purchaser taking over a vendor's existing fire insurances."
NORWICH. 1st October 1927.,

"We are much obliged to you for your reply to our query relating to 'Points in Practice,' and for your kind and prompt assistance in this, as in other matters."
SOUTHAMPTON. 11th October, 1927.

"We thank you for your letter of the 8th inst., enclosing, prior to publication in 'The Solicitors' Journal,' a reply to our query. The reply has been of much assistance."
HASLINGDEN. 11th October, 1927.

"I am much obliged for all the assistance you have rendered me. I am venturing again to trespass on your kindness in sending you one more query on a point which is now before me, and which I have not met with before."
BATH. 12th October, 1927.

"We are much obliged to you for your letter of yesterday's date and enclosure. Your services are indeed most helpful."
BRIGG. 14th October, 1927.

"We are in receipt of your letter of yesterday's date, and the opinion which accompanied it, for which we are extremely obliged."
READING. 14th October, 1927.

"We thank you for your letter of the 14th inst., which gives us the information we wanted, and we are much obliged to you for the trouble you have taken in the matter."
LONDON, E.C.4. 17th October, 1927.

All inquiries should be forwarded to:—

THE ASSISTANT EDITOR,
"SOLICITORS' JOURNAL,"
EDITORIAL DEPARTMENT,
94-97, FETTER LANE, E.C.4.

TELEPHONE: HOLBORN 1853.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 4½%. Next London Stock Exchange Settlement Thursday, 27th October, 1927.

	Middle Price 19th Oct.	Interest Yield.	Yield with Redemption.
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	85⅜	4 14 0	—
Consols 2½%	56	4 9 0	—
War Loan 5% 1929-47	102⅞	4 17 6	4 18 0
War Loan 4½% 1925-45	97½	4 12 0	4 16 6
War Loan 4% (Tax free) 1929-42	100¼	4 0 0	4 0 0
Funding 4% Loan 1960-90	85¾	4 13 0	4 14 0
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years	94⅝	4 4 6	4 7 0
Conversion 4½% Loan 1940-44	97⅞	4 12 0	4 15 6
Conversion 3½% Loan 1961	75⅜	4 13 0	—
Local Loans 3% Stock 1921 or after	63¼	4 15 6	—
Bank Stock	257	4 13 0	—
India 4½% 1950-55	93xd	4 17 0	4 18 6
India 3½%	71	4 18 6	—
India 3%	61½	4 18 0	—
Sudan 4½% 1939-73	94½	4 15 0	4 17 0
Sudan 4% 1974	85¼	4 14 6	4 18 0
Transvaal Government 3% Guaranteed 1925-53 (Estimated life 19 years)	81	3 15 0	4 12 6
Colonial Securities.			
Canada 3% 1938	85	3 11 6	4 18 0
Cape of Good Hope 4% 1916-36	92⅞	4 6 0	5 0 6
Cape of Good Hope 3½% 1929-49	81¼	4 6 0	5 0 0
Commonwealth of Australia 5% 1945-75	99⅞	5 0 0	5 2 6
Gold Coast 4½% 1956	95¼	4 14 6	4 17 6
Jamaica 4½% 1941-71	92⅛	4 18 0	4 18 6
Natal 4% 1937	92¼	4 7 0	5 0 0
New South Wales 4½% 1935-45	91¾	4 18 0	5 7 0
New South Wales 5% 1945-65	100	5 0 0	5 3 6
New Zealand 4½% 1945	97	4 12 6	4 17 6
New Zealand 5% 1946	103	4 17 0	4 16 6
Queensland 5% 1940-60	99⅛	5 1 0	5 3 0
South Africa 5% 1945-75	101⅜	4 19 0	4 18 6
S. Australia 5% 1945-75	99⅞	5 0 0	5 0 0
Tasmania 5% 1945-75	100	5 0 0	5 0 0
Victoria 5% 1945-75	100	5 0 0	5 0 0
W. Australia 5% 1945-75	99¾	5 0 6	5 2 0
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corpn.	63½	4 14 6	—
Birmingham 5% 1946-56	103¼	4 17 0	4 17 0
Cardiff 5% 1945-65	102	4 18 6	4 18 0
Croydon 3% 1940-60	68¼	4 8 6	5 0 0
Hull 3½% 1925-55	78	4 9 6	5 0 0
Liverpool 3½% redeemable at option of Corpn.	74	4 14 6	—
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	53¼	4 15 0	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	63¼	4 15 0	—
Manchester 3% on or after 1941	63½	4 14 6	—
Metropolitan Water Board 3% 'A' 1963-2003	63½	4 14 6	4 17 0
Metropolitan Water Board 3% 'B' 1934-2003	64½	4 13 0	4 15 6
Middlesex C. C. 3½% 1927-47	82¾	4 5 0	4 17 0
Newcastle 3½% Irredeemable	73	4 16 0	—
Nottingham 3% Irredeemable	62½	4 16 0	—
Stockton 5% 1946-66	101¾	4 18 6	4 19 0
Wolverhampton 5% 1946-56	101	4 19 0	5 0 0
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	83½	4 16 0	—
Gt. Western Rly. 5% Rent Charge	101½	4 18 6	—
Gt. Western Rly. 5% Preference	96¼	5 4 0	—
L. North Eastern Rly. 4% Debenture	80	5 0 0	—
L. North Eastern Rly. 4% Guaranteed	75	5 6 6	—
L. North Eastern Rly. 4% 1st Preference	67	5 19 6	—
L. Mid. & Scot. Rly. 4% Debenture	82	4 17 6	—
L. Mid. & Scot. Rly. 4% Guaranteed	80¼	5 0 0	—
L. Mid. & Scot. Rly. 4% Preference	73¾	5 9 0	—
Southern Railway 4% Debenture	82	4 17 6	—
Southern Railway 5% Guaranteed	97½	5 2 6	—
Southern Railway 5% Preference	89¾	5 11 6	—

WILD BIRD LAW.

"An Extraordinary Position."

The need for the consolidation of the law in regard to wild birds was voiced by Mr. Bingley, the Marylebone magistrate, on Tuesday last' when he fined a man 40s. for having two "recently-taken" goldfinches in his possession in Church-street, Marylebone, where he was offering them for sale.

Mr. Gordon Jones, counsel for the R.S.P.C.A., prosecuting, said the Wild Birds Protection Act, 1880, prohibited the killing, taking, or possession of recently-taken birds for six months in the year, and a Wild Birds Protection Order of 1909, extended that for the whole year so far as London was concerned.

The Magistrate: That in effect prohibits the possession of goldfinches in London?

Mr. Jones: It might be possible to keep them in Hertford or some place where there is no Order in Council, and then bring them to London when they had ceased to be legally wild.

The Magistrate: I wish these Acts could be consolidated and made clear, so that we could understand them. They are absolutely impossible for an ordinary person to understand. It is an extraordinary position that a man cannot keep goldfinches in London.

Mr. Jones: Not if they are recently taken.

The Magistrate: There must be some time when they are "recently taken."

Mr. Jones: Supposing you had a goldfinch, and kept it for a year in captivity in Surrey, you could keep it in safety in London.

The Magistrate: And if I brought it up here a day after taken I should be in trouble.

Mr. Jones added that there was no legal definition of a "recently-taken" bird except that of a judge that they were "reasonably wild and not habituated to captivity."

The Magistrate: Do lions or tigers in the Zoo ever get accustomed to captivity?

Mr. Jones: I don't know.

The defendant said that the birds came from Ireland a few days before. They were sick, and he wanted to sell them before they died.

The magistrate said the involved condition of the law in this matter made it very awkward for magistrates to construe, and for persons like the defendant to observe. He wished that Parliament would codify those Acts. Nothing had been done in the matter during the ten years that he had been on the bench.

Court Papers.

Supreme Court of Judicature.

Rota of Registrars in Attendance on

Date.	Emergency Rota.	Appeal Court No. 1.	Mr. Justice Eve.	Mr. Justice Romer.
Monday .. 24	Mr. More	Mr. Hicks Beach	Mr. Ritchie	Mr. Synge
Tuesday .. 25	Jolly	Bloxam	Synge	Ritchie
Wednesday 26	Ritchie	More	Ritchie	Synge
Thursday 27	Synge	Jolly	Synge	Ritchie
Friday .. 28	Hicks Beach	Ritchie	Ritchie	Synge
Saturday .. 29	Bloxam	Synge	Synge	Ritchie
	Mr. Justice Astbury.	Mr. Justice Clauson.	Mr. Justice Russell.	Mr. Justice Tomlin.
Monday Oct. 24	Mr. Jolly	Mr. More	Mr. Hicks Beach	Mr. Bloxam
Tuesday .. 25	More	Jolly	Bloxam	Hicks Beach
Wednesday 26	Jolly	More	Hicks Beach	Bloxam
Thursday . 27	More	Jolly	Bloxam	Hicks Beach
Friday 28	Jolly	More	Hicks Beach	Bloxam
Saturday .. 29	More	Jolly	Bloxam	Hicks Beach

HIGH COURT OF JUSTICE.—CHANCERY DIVISION.

MICHAELMAS SITTINGS, 1927.

(*Continued from page* 812).

COMPANIES (WINDING UP. AND CHANCERY DIVISION)

Companies (Winding Up).

Petitions (to wind up).

Alliance Bank of Simla ld (petn) of L W Warlow-Harry—ordered on May 6, 1924 to stand over generally)

Robert Young's Construction Co ld (petn of London Asphalte Co ld s.o. from Jan 20, 1925—liberty to apply to restore)

H A P P Tanning Co ld (petn of J. B. Maclean and ors—ordered on June 2, 1926, to s.o. generally

Trinidad Land & Finance Co ld (petn of A H Clifford & anr, trading as Cilfford & Clifford ordered on June 15, 1926, to s.o. generally)

Intertype ld (petn of Mergenthaler Linotype Co—s.o. from June 14, 1927, to Oct. 18, 1927)

W J Rider & Co ld (petn of H M Attorney-Gen)

Universal Play Direction ld (petn of Gaiety Theatre Co Ld)

Ye Ladyes ld (petn of Warren and Warren, a firm)

Baltic Insurance Association of London ld (petn of D S Brown)

British Shipping & Finance Corporation ld (petn of Carrier Engineering Co ld)

Christopher Collins ld (petn of The Mint, Birmingham ld)
Anglo-Continental & Colonial Traders ld (petn of Seligman Brothers, a firm)
Zephyr Racquet Press ld (petn of A I Flower)
Atom Motor Co ld (petn of Mathis Societe Anonyme)
William Cooper Brothers ld (petn of Vincent Smith, trading as E Smith)
Motor Drivers Association ld (petn of George Newman, trading as George Newman & Co)
Fairchild Cabinet Works ld (petn of James Kennedy & Co ld)
Foulis Construction Supply ld (petn of Eversons (Coal) ld)
Symons-Stern Co ld (petn of E Gerber)
Newton Press ld (petn of Gerald Pierce Watson, trading as George Watson & Co)
Du Jardin ld (petn of Woolley Sanders & Co ld)
Halifax Brace Co ld (petn of J Barley & Son ld)
British Baltic Development Co ld (petn of A Vercoutere)
Peter Curtis ld (petn of Sidney Reeves, Sons & Co ld)
London Cabinet Co ld (petn of of S H Striker, trading as Tidbury's Trading Co.)
Corbyn Stacey & Co ld (petn of Henderson & Liddlel ld)
E L Price ld (petn of Bumstead and Chandler ld)
Similax ld (petn of Osborne Garrett & Co. ld)
Mammoth Revue Co ld (petn of C Gulliver & ors)
Delporte ld (petn of M Hershman)
Pettitt & Cox (Printers) ld (petn of R T Tanner & Co ld)
Prudential Share & Debenture Corpn ld (petn of M Dunn ld)
Peron (1924) ld (petn of Debenhams ld)
Hammond Youre & Co ld (petn of E H Dashwood, trading as The Sycamore Works Co)
J Wynborne & Co ld (petn of A O Miles)
Coastcon Steamship Co ld (petn of W Sandford & Co, a firm)
Metropolitan Housing Corpn ld (petn of Crittall Manufacturing Co ld)
H Foreman ld (petn of A Barnett & ors)
Raleigh Studios ld (petn of E H Gates, trading as Crisp Fowler & Co & ors)
Grant Merchant & Co ld (petn of M W Woods)
Peninsular Exploration ld (petn of J & B Dodsworth ld)
General Oil Conservancy ld (petn of Camper & Nicholsons ld)
Bolsoms Fisheries ld (petn of Teuten & Co ld)
J Lashwood ld (petn of P A Franck, trading as P Franck & Co)
Day's Garages ld (petn of G Newman, trading as George Newman & Co)
William Groom & Son ld (petn of United Baltic Corporation ld)
Elder Mill (1920) ld (petn of Alliance Cotton Importers ld) (Manchester District Registry)
Anglo-Sarda Concessions ld (petn of J N Hall)
Bond Street Tailors ld (petn of Sells ld)
Fisher & Mantell ld (petn of A Weinberg, trading as N Weinberg)
Colombian Proprietary Gold Mines ld (petn of S J Cohn)

Chancery Petitions.

Hull Oil Manufacturing Co ld & reduced (to confirm reduction of capital)
Paul Ruinart (England) ld & reduced (same)
Askern Picture House ld & reduced (same)
Grimsby Steam Fishing Co ld & reduced (same)
Marconi's Wireless Telegraph Co ld & reduced (same) (with witnesses—retained by Mr. Justice Eve—fixed for Nov 7, 1927)
Marconiphone Co ld & reduced (same) (pt hd) (retained by Mr Justice Eve—fixed for Nov 7, 1927)
Y Y Pills ld & reduced (same)
Bailbrook House ld & reduced (same)
Beira Town Sites ld & reduced (same)
Glenhafod Collieries ld & reduced (same)
Vanessa Manufacturing Co ld & reduced (same)
Read & Roberts ld & reduced (same)
Ploughboy Co ld & reduced (same)
County Fishing Co ld & reduced (same)
Richard Jackson ld & reduced (same)
Ravensworth Golf Club ld (to confirm alteration of objects)
British-American Tobacco Co ld (same)
Marine & General Securities ld (same)
E W Rudd ld (to confirm reorganisation of capital)
Permanent Fund & Investment Soc ld (to restore name to register)

Companies (Winding Up).
Motions.

John Dawson & Co (Newcastle-on-Tyne) ld (s.o. generally by consent)
S Jacobs & Co ld (ordered on March 15, 1921 to s.o. generally)
H C Motor Co ld (ordered on July 5, 1921 to s.o. generally)
Corbridge Steamship Co ld (ordered on Dec. 15, 1925 to s.o. generally)
R Maurice & Co ld (ordered on April 5, 1927 to s.o. generally)
F Stanley & Co ld
Same
Greater Britain Insce Corpn ld
Herbert Engineering Co ld
Vint's Theatres ld
James Burton & Sons ld

Adjourned Summonses.
Companies (Winding Up).

Vanden Plas (England) ld (with witnesses—parties to apply to fix day for hearing—retained by Mr Justice Astbury)
Fairbanks Gold Mining Co ld (ordered on July 26, 1921 to s.o. generally)
Blisland (Cornwall) China Clay Co ld (ordered on Dec 16, 1921 to s.o. generally)
Atkey (London) ld (ordered on Jan 22, 1924 to s.o. generally)
Direct Fish Supplies ld (ordered on Feb 3, 1925 to s.o. generally)
Consolidated Produce Corpn ld (application of Sir E Bellingham —with witnesses—ordered on Dec 7, 1926 to s.o. generally—retained by Mr Justice Eve)
Same (application of H Williams—with witnesses—ordered on Dec 7, 1926 to s.o. generally—retained by Mr Justice Eve)
Same (application of I Hyams—with witnesses—ordered on Dec 7, 1926 to s.o. generally—retained by Mr Justice Eve)
James Beck Cotton Spinning Co (ordered on June 28, 1927 to so.o generally)
Russian Commercial & Industrial Bank (with witnesses)
Capital & Counties Insce Co ld
Peron ld
Sovereign Shipping Co ld
British Berna Motor Lorries ld (appln of G A O'Hanlon)
Same (appln of C W Grimwade)
W H Spencer & Sons ld

Chancery Division.

French South African Development Co ld Partridge v French South African Development Co ld (ordered on April 2, 1914 to s.o. generally pending trial of action in King's Bench Division)
Economic Building Corpn ld (with witnesses) (ordered on July 3, 1923 to s.o. generally)
Economic Building Corpn ld (ordered on July 3, 1923 to s.o. generally)
Charles Marsden & Sons ld Dobson v Charles Marsden & Sons ld & ors

Before Mr Justice Tomlin.
Cause for Trial.
(With Witnesses).

Re Glaeser Cruesemann v Administrator of German Property (pt hd) (to be mentioned on Oct 12)

Assigned Adjourned Summons.

Re Western Electric Co ld Patent & re Patents and Designs Acts, 1907 & 1919 (to be mentioned on Oct 12)

Further Consideration.

Re Sykes Sykes v Sykes

Adjourned Summonses.

Re Taylor Hulbert v Taylor (s.o.) (with witnesses)
Re Achillopoulos Johnson v Mavromichali (s.o.)
Re Adams Brendon v Brendon (s.o.)
British Thomson-Houston Co ld v Goodman (with witnesses)
Re Black Collins v Black
Re Caro Pushinsky v Caro
Re Oates Jubb v Slinger
Re Roberts London City & Midland Executor & Trustee Co ld v Lambert
Re Thomson Thomson v Lobb
Re Rimington-Wilson Wilson v Rimington-Wilson
Re Aisbitt-Gibson Walker v Aisbitt-Gibson
First Garden City ld v Bonham-Carter
Re Dixon Linnell v Booker
Re Leach Leach v Leach
Re Armaghdale Craig v Armaghdale
Re Fegan Fegan v Fegan
Re Miles Miles v Miles (restored)
Re Smith Dampier Public Trustee v Smith Dampier
Re J Thornycroft & Co ld J Thornycroft & Co ld v Thornycroft
Re Chapman Davison v Chapman
Re Martin Martin v Martin
Re Scrymgeour Royal Exchange Assce v Rhodes
Re Woollett Woollett v Woollett
Re Vaux Nicholson v Vaux
Re Page Wallis Trust
Re Hall Hill v Kisby
Re Nicholls Nicholls v Price
Re Johnson Midland Trust ld v Butlin
Re Robinson Withnell v Robinson
Re Blyth Warner v Warner
Re Trade Marks Acts, 1905 to 1919 Re Oscar Sutterlin's Appln Re N F McCarthy Smith's Trade Mark
Re Owen Adams v Ferry
Re Smith Smith v Attorney-Gen
Re Crawshay Dunster v Steele
Re Weston Weston v Weston
Lloyds Bank ld v Miles
International Electric Co ld v Aktiengesellschaft Mix & Genest
Re Humphreys Dowling v Cousins
Leconfield v Storey
Mayor, &c of Reigate v Surrey County Council
Re De Lima Plunkett v De Lima

Before Mr. Justice Clauson.
Causes for Trial.
(With Witnesses).

Levison v Hart
Steele v Steele
Adria S A Di Navigazione Mauttina v Administrator of Hungarian Property (s.o. for Attorney-Gen)
Mills v African Construction Corpn ld
Roake v Freeman
Trustee in Bankruptcy of W F Forsyth v Rands
Gaud ld v Gaud
Plumley v Hodges
Hoskins & Birch
Howard v Depper
Rumball v B S Lyle ld
Pollard v Johnson
Hart v Hart
May v Chamberlain
Re Wheeler Miller v Wheeler
Dickson v Halesowen Steel Co ld
Clarke v Mutton
Dowsett v Kirkwood
Steward v Lynch
Rex Company & Rex Research Corpn v Muirhead
Perry v Kinlan
Walker v Shaw
Hanks v Coombes
Hopwood v Durell
Baldwin v Baldwin
Morrell v Harris
Lovatt v Griffiths
Ginger v Martin
Trustee in Bankruptcy of A Hood v Southern Union General Insce Co of Australasia ld
Schia v Necchi
Sims v Barclay
Trustee in Bankruptcy of P O'Keefe v Condon
Gill v Yorkshire Herald Newspaper Co ld
Galloway v Dekovnick
Hood v Drewe-Mercer
Greswolde-Williams v Newcastle-upon-Tyne Corpn
Harvey v Boyle
Taylor v Hyde
Castle v Field
Graham v Adamson
Ronald Frankau Productions ld v. Bell
Fishenden v Shaw
Stevens v Lavington
Rearden v Tomkins
Payne v Haywood

Hutchins v Arnold
Seymour v Lewis
Re Jude Oastman v Jude
Levin v Simons
Astra Films ld v Thompson
Scott v Howden

APPEALS AND MOTIONS IN BANKRUPTCY.

Appeals from County Court to be heard by a Divisional Court sitting in Bankruptcy, pending October 3rd, 1927.

Re Levin Expte The Debtor v A J Adams, The trustee appl from the County Court of Lancashire (Manchester) (s.o. generally)

Re a Debtor (No 14 of 1927) Expte The Petitioning Creditor v The Debtor (Wandsworth, Surrey)

Re a Debtor (No. 69 of 1926) Expte The Petitioning Creditor v The Debtor (Croydon, Surrey)

Re a Debtor (No. 23 of 1926) Expte The Petitioning Creditor v The Debtor (Croydon, Surrey)

Re a Debtor (No. 17 of 1927) Expte W Jago v The Petitioning Creditor & The Official Receiver (Portsmouth, Hampshire)

Motions in Bankruptcy for hearing before the Judge, pending October 3rd, 1927.

Re Douglas Expte H Holmes, The Trustee v R C Bartlett s.o. generally)

Re Williams, Expte R F Nelson v J F Burtenshaw, The Trustee (s.o. generally)

Re Pinto Leite & Nephews Expte Visconde dos Olivaes v Sir W B Peat, The Trustee

Re Cooper Expte F S Salamon v Civil Service Mutual Furnishing Assoc

Re Guermaschoff Expte The Debtor v F Froude, The Trustee & A Neagle & Co ld

Re Austen-Smith Expte The Trustee appln for directions under Order, dated May 13, 1926

Re Sachs Expte The Debtor v W C Gaunt

Re Van Kuylenberg Expte The Trustee for directions as to validity of proof of W L Dillingham

Re Van Kuylenberg Expte Clarebell Investment Co ld v J Stevenson The Trustee

Re Sacks Expte A Levene v W G T Derwent, The Trustee

Re Same Expte D Shulman v Same

Re Same Expte D Sacks v Same

Re Same Expte A Sacks v Same

Re Fairbrother Expte K M Ball

Re Cohen Expte The Trustee v Morris Solomons

Re Sacks Expte E Harrison v W G T Derwent, The Trustee

Re Hatten Expte F S Salaman, The Trustee v W D F, N F & D G F Hatten

Re Mundy Expte F S Salaman, The Trustee v R C G Mundy

Re Arthur Expte The Trustee

Re Green Expte W Rowley, The Trustee v F Green

Re Julius Expte A Willmott, The Trustee v H Rosenthal

KING'S BENCH DIVISION.

MICHAELMAS SITTINGS, 1927.

CROWN PAPER.

For Argument.

The King v Roberts
The King v General Commrs of Income Tax
Bury Felt Manufacturing Co ld v Moore
Bell & anr v Harker
The Lord Mayor, &c of the City of Birmingham v The Mother General of the Convent of the Sisters of the Charity of St Paul & ors
Lomax v Frearson
Wilson v Yates
Barnes v Robottom & anr
Osborne v Martin
Harker v The Britannic Assce Co ld
In re a Solicitor
The West Riding of York County Council v Brooks
In re a Solicitor
Riley Bros (Halifax) ld v Hallimond
The King v The Keepers of the Peace & Justices for the City & County Borough of Sheffield
Lambert v Sharman
Jones v Edwards
Vesey-Fitzgerald v Rolfe
The Guardians of Mitford & Launditch Union v The Guardians of Norwich Incorporation
Turner v C Venables & Co ld
Same v same
The King v The Electricity Commissioners

CIVIL PAPER.

(For Hearing).

Winter v Green (Stratford-on-Avon County Court)
Watney, Combe, Reid & Co ld v Lamb (Brentford County Court)
London Stationery Co ld v Forbes & anr (Mayor's & City of London Court)
N V Handel Maatschappij Leo Peltenburg v Aronson
M Hayes & Sons ld v Bishop (Mayor's & City of London Court)
Drummond v Hervey (Brentford County Court)
G M Vanderborght Freres Soc Anonyme v Verschelde & anr
Halsey v Barling (Newmarket County Court)
Rhodes v Darlington (Westminster County Court)
Turner v Watts (Bristol County Court)
Moses v Rodell
Whitehead v Applin & Barrett and Western Counties Creameries ld (Wandsworth County Court)
In the Matter of the Companies Consolidation Act 1908 and In the Matter of F & E Stanton (Hogg v Maule & anr) (Greenwich County Court)
Wheatland & Sons ld v Park (Wandsworth County Court)
Richardson v Holliday
Gilding & anr v Robinson
Mayor, &c of County Borough of Wolverhampton v Frank Myatt ld
Bennett v Hill
In the Matter of the Companies Consolidation Act 1908 and In the Matter of F & E Stanton (Greenwich County Court)
Some Film ld & anr v Sinclair
Gould Bros ld v Parratt (Farnham County Court)
G W Ry Co v Penmaenpool Bridge Co ld (Dolgelley County Court)
Salisbury Supply Co v Pitkin (Blaxter Clmt) (Wandsworth County Court)
Lower Lanealson & Caudle China Clay Co ld v Higman (Western Counties Clay Co ld 3rd Parties)
Cambridge Hire & Garage Co ld v Butler & anr (West London County Court)
Crisp v Marbello ld (Birmingham County Court
Brooks & ors v Liffen (Westminster County Court)
F E Judd & Co v Hayward & anr (Mayor's & City of London Court)
Leslie's Agency ld v Wells (Bow County Court)
Fulham & Hampstead Property Co ld v Horne (Greenwich County Court)
Gabela v Owner of S.S Aris
McCulloch v Parrott (Buckingham County Court)
Cooper v Dobell (Lambeth County Court)
Haskell & anr v Marlow & ors
Callow v Davies
Same (consolidated v Same
H Rooke Sons & Co v Piper & May
Surtees & ors v Smyth, Richards & ors (South Molton County Court)
Humphreys ld v Jefferson
Simons v Hope (Bloomsbury County Court)
Teacher v Chodak (Whitechapel County Court)
Humber Conservancy Board v Federated Coal & Shipping Co ld (Kingston-upon Hull County Court)
Stott & anr v Shaw & Lee ld (Salford County Court)
Mayor, &c of Barnsley v Penistone U D C (Barnsley County Court)
Baehr v The Genuine Co (Marylebone County Court)
Rogers v Levien (North Walsham County Court)
Gross v Wiseman (Lambeth County Court)
Hardingham v Mallinson (Westminster County Court)
Mayor, &c of Islington v Stratton (Clerkenwell County Court)
St Asaph R D C v Williams & anr
Gardiner v Heading & anr (Westminster County Court)
Gower v Goodwin (Pontypridd County Court)
Haltenhof v Phillips & Sons (Wandsworth County Court)
Samuel Elliott & Sons (Reading) ld v Renault ld (West London County Court)
Miles v Roos (Marylebone County Court)
Williams v Chapman (Greenwich County Court)
Brooke v Hodgkinson
Wells v Weston (West London County Court)
Glanville v Sutton & Co ld (Mayor's & City of London Court)
Rich v Potter (Horsham County Court)
Collier v Hodges (Brentford County Court)
Carr v Allen Bros (Waltham Abbey County Court)
Bennison & anr v Karno (B Alexander & New Princes (1924) ld Clmts)
Conquer v Boot (Brentford County Court)
Gardiner v Heading & anr (Westminster County Court)
Hogbin v Rogers (Ramsgate County Court)
Clarke & anr v Shanks (Mayor's & City of London Court)
Brayshaw v Longland (Peterborough County Court)
Wallis, Stott & Co ld (in liquidation) v Wallis, Stott & Co (Manchester) ld
Halls & anr v Quarterly Dividends ld & ors (Bristol County Court)
Dimmock v L M & S Ry Co (Altrincham County Court)
Dexters ld v Arnhold & Co ld
Doran v Doran (North Shields County Court)
Hives v Dawson (Clerkenwell County Court)
Haywood v Bennett (Birmingham County Court)
Fleming, Reid & Co ld v Bendall (Carlisle County Court)
Smith v Callendar's Cable & Construction Co ld (Atherstone County Court)
J W Jackman & Co ld v Leigh
Wright v Dennis (Kent Mitchell ld Garnishees)
John A Ley & Sons v Goodman & Wife (Robinson & anr Clmts) (Preston County Court)
Cail v Barker & anr (Richmond County Court)
Russian Oil Products ld v Clifford & Hall ld

SPECIAL PAPER.

Manufacture Likino de Smirnoff v Blessig, Braun & Co
Cie Continentale d'Importation v Union der Soz. Sorvjet, &c
Rabich v Barnett, A J & Co
Foreman & Ellams ld v Blackburn
Morgan v Bostock
Symington & Co ld v Union Insce Soc of Canton ld
Lewis v British General Insce Co ld
Cottage Club Estates ld v Woodside Estate Co (Amersham) ld
Board of Trade v Canadian Packing Co ld & ors
Hands v Spiller

MOTIONS FOR JUDGMENT.

Equitable House Property Co ld v Rhodes
Bird v Bristow

REVENUE PAPER.

ENGLISH INFORMATION.

Attorney-General and Claud Effie Bergin
Attorney-General and The London & North Eastern Ry Co & ors

CASES STATED.

The Charterland & General Exploration & Finance Co ld and The Commrs of Inland Revenue
The Devon Mutual Steamship Insce Assoc and F W Ogg (H M Inspector of Taxes) (pt hd)
T Haythornwaite & Sons ld and T Kelly (H M Inspector of Taxes)
G W Selby Lowndes and The Commrs of Inland Revenue
James Shipstone & Sons ld and G C Morris (H M Inspector of Taxes)
The Commrs of Inland Revenue and L H Bentall
Army & Navy Co-op Soc ld and The Commrs of Inland Revenue
G J Scales (H M Inspector of Taxes) and George Thompson & Co ld
The Commrs of Inland Revenue and George Thompson & Co ld
George Thompson & Co ld and The Commrs of Inland Revenue
E A Whitaker (H M Inspector of Taxes) and William Willett ld
The Commrs of Inland Revenue and The Empire Cotton Growing Corporation
Harold George Butler (H M Inspector of Taxes) and The Mortgage Company of Egypt ld
J Bernard and F A Gahan (H M Inspector of Taxes)
J Bernard and Commrs of Inland Revenue
H J Green (H M Inspector of Taxes) and J Gliksten & Son ld
Commrs of Inland Revenue and J Gliksten & Son ld
The South Metropolitan Gas Co and J Dadd (H M Inspector of Taxes)
Ensign Shipping Co ld and The Commrs of Inland Revenue
W Jones (H M Inspector of Taxes) and C H Wright
G V Williams (H M Inspector of Taxes) and F H Houlder
Francis Sidney Mallett (H M Inspector of Taxes) and The Staveley Coal and Iron Co ld
Mrs L A Lassen and The Commrs of Inland Revenue
Guardian Assce Co ld and The Commrs of Inland Revenue
The Commrs of Inland Revenue & The Northfleet Coal & Ballast Co ld
H D Beynon (H M Inspector of Taxes) and Thomas Wells Thorpe
Major R B Turton and W G Mitchell (H M Inspector of Taxes)
The Royal Antediluvian Order of Buffaloes and P D Owens (H M Inspector of Taxes)
F G Baker (H M Inspector of Taxes) and Messrs Mabie, Todd & Co ld
R & H Green and Silley Weir ld and Commrs of Inland Revenue
Commrs of Inland Revenue and R & H Green and Silley Weir ld
The General Medical Council and Commrs of Inland Revenue
The English Branch Council of the General Medical Council and Commrs of Inland Revenue
Commrs of Inland Revenue and A E Hawley
Robert Montgomery Birch Parker and Allan Chapman (H M Inspector of Taxes)
Commrs of Inland Revenue and The National Federation of Women's Institutes

DEATH DUTIES—SHOWING CAUSE.

In the Matter of Arthur George Earl of Wilton, dec
In the Matter of John William Atkinson, dec
In the Matter of George Eli North, dec
In the Matter of Annie Sharpe, dec
In the Matter of George Bone, dec

PETITIONS UNDER THE FINANCE ACT 1894.

In re Samuel Thornley, deceased
In re William Francis Courthorpe, deceased
In re Baron Henry Edward E V Bliss, deceased

PETITION UNDER THE FINANCE (1909-10) ACT 1910.

In re The Windsor Steam Coal Co (1901) ld (in liquidation)

SPECIAL CASE.

Attorney-General and Antofagasta (Chili) and Bolivia Ry Co ld

DEMURRER.

Attorney-General and Guy Motors ld

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JOHN SAMUEL KEAST, deceased, of Wilmington-square. Any person having knowledge of a WILL, will they communicate with J. Collet, 24, Gt. Percy-street, King's Cross, N.

JOSEPH JOHN JACKSON, deceased.—Any person having knowledge of a Will of the above-named deceased, late of "Glenview," Hereford, Chemist, who died on the 4th day of June, 1927, is requested to communicate forthwith with either of the undersigned: T. A. Matthews, Solicitor, 6 & 7 King Street, Hereford; Timbrell, Deighton & Nichols, Solicitors, 90 Cannon-street, London, E.C.4.

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